

1 IN THE UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

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5 DEARREA KING, Adm., of the)

6 ESTATE OF TYREE KING,) CASE NO. 2:18CV1060

7 Plaintiff,) JUDGE EDMUND A. SARGUS, JR

8 -V-) CHIEF MAG. JUDGE ELIZABETH

9 THE CITY OF COLUMBUS, et al,) P. DEAVERS

10 Defendants.)

11 - - - 000 - - -

12 CHRISTOPHER M. COOPER, Adm.,)

13 Of the ESTATE OF DEAUNTE) CASE NO. 2:19CV3105

14 BELL-MCGREW,)

15 Plaintiff,) JUDGE GEORGE C. SMITH

16 -V-) CHIEF MAG. JUDGE ELIZABETH

17 THE CITY OF COLUMBUS, et al,) P. DEAVERS

18 Defendants.)

19 - - - 000 - - -

20 JAMES J. ENGLAND,) CASE NO. 2:19CV1049

21 Plaintiff,) JUDGE SARAH D. MORRIS

22 -V-) MAGISTRATE JUDGE KIMBERLY

23 THE CITY OF COLUMBUS, et al,) A. JOLSON

24 Defendants.)

EXHIBIT
Pl. Ex. 2

1 - - - 000 - - -

2 The video teleconference deposition of OFFICER
3 TRACI SHAW, a witness herein, being called by the
4 Plaintiffs as if upon cross-examination under the
5 statute, and taken before Megan A. Medved, a Notary
6 Public within and for the State of Ohio, pursuant to the
7 agreement of counsel, on Wednesday, January 27th, 2021,
8 at 10:30 a.m., at the Offices of Tackla Court Reporting,
9 LLC, 1020 Ohio Savings Plaza, 1801 East 9th Street, City
10 of Cleveland, County of Cuyahoga, and the State of Ohio.

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1 P-R-O-C-E-E-D-I-N-G-S

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3 TRACI SHAW, of lawful age, a witness herein,
4 having been first duly sworn, as hereinafter certified,
5 deposes and says as follows:

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7 CROSS-EXAMINATION OF TRACI SHAW

8 BY MS. GREENE:

9 Q. Good morning. I'm Jacqueline Green. I'm one of
10 the lawyers representing the Plaintiffs in three
11 separate cases that we're here to talk about. Those
12 cases include Cooper vs. Columbus, et al., England v.
13 Columbus, et al., and King v. Columbus, et al. Before
14 we get started, for the record, can you please state and
15 spell your name?

16 A. Yes. My name is Traci Shaw. T-R-A-C-I. Middle
17 initial M for Michelle, MICHELLE. Shaw, S-H-A-W.

18 Q. I think your connection might be a little bit
19 wavering. You cut out for a second there. Before we
20 get going, I'll talk a little bit about our rules of
21 deposition, although, I'm sure that you've spoken about
22 these with Mr. Sperlazza in advance of today's
23 deposition. We are using Zoom on the Internet, so
24 sometimes there will be technical issues. At any point
25 if you're experiencing tech issues on your end, please

1 let us know right away. If for some reason your audi
2 isn't working, you could send us a message in the chat.

3 A. Okay.

4 Q. And let's see here. Have you ever testified in
5 a deposition before?

6 A. I have, ma'am, but I've not done one on Zoom.

7 Q. Okay. So, our most important special rule for
8 Zoom depositions is that if you are having any issues
9 that you please let us know right away.

10 A. Okay.

11 Q. Before we get going today I want to remind you
12 of some of the other rules of deposition. The first of
13 them is that we need to make sure that we're speaking
14 one at a time. Please let me finish my questions before
15 you begin your answers, or if your attorney is making
16 any statements, please let him finish before you start
17 answering, so we can keep a clean record for our court
18 reporter today. Okay?

19 A. Yes, ma'am.

20 Q. And, of course, we need you to answer verbally
21 with yes and no. Nods of the head or nonverbal answers
22 will not be recorded into the record, so we will need
23 verbal answers throughout. Okay?

24 A. Yes.

25 Q. Okay. And if at any point I ask a question to

1 you that you either don't hear because of Zoom problems,
2 or don't understand, or need clarification on, whatever
3 the issue may be, please let me know and ask me to
4 restate the question or rephrase. Okay?

5 A. Yes, ma'am.

6 Q. Okay. And just to be clear though, we are on
7 Zoom. Of course, you do understand that you're here
8 testifying under the plenty of perjury, correct?

9 A. Yes, ma'am.

10 Q. If at any time you need a break, that's fine.
11 Just make sure that you answer any pending questions,
12 and then, let us know you need a break. Okay?

13 A. Yes, ma'am.

14 Q. Okay. And before we get going, are you sitting
15 here today under the effects of any medical or other
16 issue that may affect your ability to testify truthfully
17 or accurately this morning?

18 A. No, ma'am.

19 Q. Okay. And what is your current rank?

20 A. I'm an officer.

21 Q. Okay. Officer Shaw, you understand that you're
22 here today to testify concerning the police involved
23 shootings of James England on February 6th, 2015,
24 Deaunte Bell-McGrew on October 29th, 2015, and Tyree
25 King on September 14th, 2016, correct?

1 A. Yes, ma'am.

2 Q. And you understand that you're here in your
3 official capacity as a representative of the City of
4 Columbus?

5 A. Yes, ma'am.

6 MS. GREENE: And before we move any
7 further, I'll ask counsel to stipulate on the record to
8 the topics that Officer Shaw is here today to testify
9 concerning. So, starting with Cooper v. Columbus, et
10 al, Officer Shaw is here to testify about topic 1(A),
11 CDP policies, procedures, and practices from 2010 to
12 present concerning use of deadly force, is that correct?

13 MR. SPERLAZZA: That's correct.

14 MS. GREENE: As well as topic 2(A),
15 CDP's training of its police officers and materials used
16 for such training from 2010 to present concerning use of
17 force, correct?

18 MR. SPERLAZZA: That's correct.

19 MS. GREENE: And topic 5(A), CDP's
20 training of Defendants Baase and Narewski and materials
21 used for such training concerning use for deadly force.

22 MR. SPERLAZZA: That's correct.

23 MS. GREENE: And then, in the England
24 case, England v. Columbus, et al., again, topic 1(A),
25 CDP policies, procedures, practices from 2010 to present

1 concerning use of deadly force.

2 MR. SPERLAZZA: Correct.

3 MS. GREENE: Topic 2 (A), CDP's
4 training of its police officers and materials used for
5 such training from 2010 to present concerning use of
6 deadly force.

7 MR. SPERLAZZA: That's correct.

8 MS. GREENE: And topic 5, CDP's
9 training of Defendant Abel and materials used for such
10 training concerning the use of deadly force.

11 MR. SPERLAZZA: That's correct.

12 MS. GREENE: And then, in the matter
13 of King vs. Columbus, et al, again, Officer Shaw is here
14 to testify on topic 1(A), CDP's policies, procedures and
15 practices from 2010 to present concerning use of deadly
16 force.

17 MR. SPERLAZZA: That's correct.

18 MS. GREENE: Topic 2 (A) CDP's training
19 of its police officers and materials used for such
20 trainings from 2010 to present concerning use of deadly
21 force.

22 MR. SPERLAZZA: That's correct.

23 MS. GREENE: And then, topic 5 (A),
24 CDP's training of Defendant Mason and materials used for
25 such training concerning use of deadly force.

1 MR. SPERLAZZA: That's correct.

2 MS. GREENE: Are there any other
3 topics for which Officer Shaw is designated to testify
4 today?

5 MR. SPERLAZZA: No, ma'am.

MS. GREENE: Thank you very much.

7 | BY MS. GREENE:

8 Q. Okay. So, Officer Shaw.

9 A. Yes, ma'am.

10 Q. What did you do to prepare for the deposition
11 today?

12 A. I looked over my lesson plan that we normally
13 give our training recruits. So, that's at the basic
14 training level. I looked over, again, case law of
15 Graham v. Connor. I looked over Tennessee v. Garner,
16 that's another one. Reaction times, I looked at that
17 this morning to answer, you know, I'm sure what's going
18 to come up is, I'm guessing the training that we give
19 the recruits as far as reaction times. That's a big
20 part of training with deadly force. And I looked up
21 the, I guess, the training records of the officers
22 involved, just scrolled down through those.

23 Q. Anything else?

24 A. I looked at our use of force policy. Of course,
25 I realize that this is over -- I looked over our current

1 use of force policy. So, I realized that's a different
2 time than when these incidents occurred, but just to
3 familiarize myself.

4 Q. Any other documents you reviewed for today?

5 A. No, ma'am.

6 Q. How much time did you spend reviewing documents
7 for today's deposition?

8 A. I got into work this morning somewhere around 8
9 a.m. So, from eight to 10 with a lot of interruption.

10 Q. As happens any time any of us are in the office,
11 right?

12 A. Yes.

13 Q. Did you meet with any attorneys in advance of
14 today's deposition to prepare?

15 A. No, ma'am.

16 Q. Did you speak with anyone in preparation for
17 today's deposition?

18 A. Yes. I spoke with Bill. He called me on the
19 phone to make sure that I was familiar with Zoom. Just
20 to make sure that I was familiar enough with Zoom,
21 because that can slow depositions down if I was not.

22 Q. Okay. Did you speak with anyone besides Bill in
23 preparation for this deposition today?

24 A. No, ma'am.

25 Q. Okay. Officer Shaw, please tell me about your

1 **educational background.**

2 A. I graduated from high school, obviously. Went
3 to Mount Vernon of Nazarene for business. Then, I
4 became a medical assistant. I went through a year of
5 medical training in phlebotomy. I was a radiation tech,
6 so I did X-rays. I got on the department in 1999, and
7 then I graduated the academy in June of 2000. So, I
8 guess, from '99 until 2000 it was a basic training
9 curriculum, OPOTA curriculum at that time, and then the
10 policies, of course, of the Columbus Division of Police
11 at the time.

12 Since then I was a field training officer, so I
13 went through the training associated with that.

14 Defensive tactics instructor in '03, became a certified
15 defensive tactics instructor with OPOTA in '05, and I've
16 had numerous -- I'd have to look at my certificates, but
17 numerous trainings that I've went through. I've also
18 went through force science which was a week long
19 training specifically dealing with use of force
20 incidents. I've done executive protection training,
21 ground fighting training, officer survival school in the
22 water. And then, all of the rollcall trainings that
23 have been done for the division and inservice trainings,
24 firearms.

25 Q. **Let me briefly interrupt you. Before you said**

1 **all of the rollcall trainings you cut out. What did you**
2 **say?**

3 A. All of the rollcall training from 1999 to 2000,
4 so they have varied from, obviously, from sergeants
5 giving those at rollcall to, obviously, computers were
6 introduced in my tenure on the division. So a lot of
7 those are electronic now. And I also have the inservice
8 trainings from 1999 to the present. All the legal
9 updates. I've, obviously, attended all of those. The
10 yearly defensive tactics reviews.

11 **Q. What year did you finish high school?**

12 A. 1990.

13 **Q. And your Mount Vernon of Nazarene College**
14 **degree, what year was that?**

15 A. I was one of the ones that started in like 2000
16 and finished in 2005, I believe.

17 **Q. Okay. And then, a lot of what you described to**
18 **me just now was like academy and then departmental**
19 **training, right?**

20 A. Yes, ma'am.

21 **Q. Okay. You mentioned that you were a defensive**
22 **tactics instructor in 2003. Was that starting in 2003**
23 **and ongoing, or just in the year of 2003?**

24 A. So, that was a two week course, and that was in
25 2003, and that was training specific to the Columbus

1 Division of Police. So, that's basically dealing with
2 training of officers. And then, in 2005, that was
3 training dealing with basic training with OPOTA.

4 **Q. Were these both kind of train the trainer
5 trainings?**

6 A. No. So, the train the trainer level to make
7 other instructors, that's something completely
8 different. So training to teach is a lower standard,
9 but actually training to train the trainer, I didn't get
10 that certification until 2012.

11 **Q. Okay. So, trained to teach in 2003 for
12 defensive tactics. And then, 2005 for the OPOTA course.
13 And then, in 2012 you were trained to be a trainer?**

14 A. Yes, ma'am. Well, certified to do that.

15 **Q. Okay. So, in terms of defensive tactics
16 training, you have been an instructor of other officers
17 in the CDP, then over the course of your career, is that
18 right?**

19 A. Yes, ma'am.

20 **Q. When did you start teaching other officers in
21 the CDP about defensive tactics?**

22 A. 2003.

23 **Q. Okay. And have you been providing defensive
24 tactics training to CDP officers from 2003 onward?**

25 A. Yes, ma'am.

1 Q. And tell me about your role as a defensive
2 tactics trainer in the CDP.

3 A. Yes, ma'am. So, from 2003 to 2010 I was
4 involved in inservice training of other officers through
5 defensive tactics training to include use of Taser,
6 being a Taser instructor. And then -- so, basically
7 that's lecture. And then, also running the skills. And
8 then also taking part as a role-player or an evaluator
9 in scenarios.

10 Q. And did you teach, during this annual inservice
11 training that you just described, were you the sole
12 trainer, or did you teach in a team with others?

13 A. I taught with others, and that would have been
14 on separate schedules. So, when we do inservice
15 training you have first shift, second shift, and third
16 shift. So I was a third shift trainer until 2010.

17 Q. Okay. And so, from 2003 to 2010 you were the
18 defensive tactics trainer for third shift officers for
19 the annual inservice training, is that right?

20 A. Yes, ma'am.

21 Q. And then, for the people who trained the first
22 and second shift officers, did they give the same
23 training that you provided to third shift officers? Was
24 it constant throughout?

25 A. Yes, ma'am. Same PowerPoint; same training;

1 same scenarios.

2 Q. Okay. So then, every officer in the CDP would
3 have received the same training whether they received it
4 from you or the other officers providing the first or
5 second shift training?

6 A. Yes, ma'am. And at the time it wasn't specific
7 to -- obviously, if someone was a detective versus a
8 patrol officer, everyone received the same training.

9 Q. We'll talk more about that in a bit. But,
10 beyond the inservice training as a defensive tactics
11 instructor, did you do any other training for CDP
12 officers?

13 A. Yes, ma'am. So, in 2005, then, my
14 responsibility then changed to also include recruits.
15 So, that would be new officers that have not yet
16 received their OPOTA certifications.

17 Q. So, that's the academy then, you would teach
18 defensive tactics to the academy students?

19 A. Yes, ma'am. And that would have been on a
20 part-time basis up until 2010. And then, in 2010, I got
21 a position at the academy. And then, in 2011, that
22 position became permanent.

23 Q. Okay. So, maybe I should ask this question
24 first and we can come back to this topic. Can you tell
25 me about your current role in the organizational

1 **structure of the -- you're a division of police, right,**
2 **not a police department?**

3 A. Yes. So, my current role is I would be the Lead
4 Defensive Tactics Instructor for the recruit training
5 for the Division of Police.

6 Q. Okay. And your current role is officer, but
7 you're the lead instructor for defensive tactics for
8 recruit training, right?

9 A. Yes, ma'am.

10 Q. And explain to me in the organizational chart of
11 the CDP where you fit in?

12 A. Sure. I'm almost near the bottom. So, I'm just
13 right above the recruits.

14 Q. Okay. But, you do have this leadership role
15 even as an officer?

16 A. Yes, ma'am.

17 Q. Okay. And in terms of the path to lead you to
18 this role of lead defensive tactics instructor for
19 recruit training, did you have to undertake any testing,
20 or other tasks that needed to be completed to be
21 designated in that role, or appointed to that role?

22 A. We have yearly use of force testing that we have
23 to do, but that's for everyone in the division. So, I
24 wouldn't say it's exactly a written test, but there is a
25 written test for becoming an instructor of impact

1 weapons, of subject control. There is for becoming an
2 instructor period. There's a test involved in that.
3 Also presentation is involved in that. In order to have
4 the role specifically, I would say, yes, you would
5 certainly need all of that training and testing before
6 they would put me in the role that I am now.

7 **Q. Okay. And do you currently teach defensive**
8 **tactics to certified officers who are members of the**
9 **CDP, or just recruits?**

10 A. Just to recruits. We do have -- I mean, we're
11 all in the same building, so certainly if they're short
12 an instructor, we'll come down and help instruct, but
13 that's on a limited basis.

14 **Q. Okay. And in what year did you stop teaching**
15 **CDP officers about defensive tactics other than on this**
16 **kind of as-needed, fill-in basis?**

17 A. So, I became an instructor specifically for
18 recruit training in 2011. So, however, it depended on
19 our staffing. So I don't know of an exact date of when,
20 I guess, on what phase training that I did not help out
21 with those scenarios. I can't say a specific date.

22 **Q. Okay. In any case, you've been designated to**
23 **testify about the training that is provided to officers,**
24 **but you primarily being a training for officers and**
25 **instead were training recruits?**

1 A. Yes, ma'am.

2 Q. Okay. So, can you please tell me a little bit,
3 or give me an overview of your employment path and roles
4 within the CDP from time of hire to the present?

5 A. Yes, ma'am. So, I was a patrol officer from the
6 time that I graduated the academy. And then, obviously,
7 I developed those certifications, but it didn't change
8 my title at all. It just changed some of my roles. I
9 became a field training officer in 2004 or 2005, I
10 believe. And then, that field training officer position
11 allowed me to take a temporary role in 2010 at the
12 academy, and then in 2011 a permanent job came up and
13 became part of staff.

14 Q. Have you at any time sought promotion within the
15 department in terms of rank?

16 A. No, ma'am.

17 Q. Why not?

18 A. So, if you know anything about the police
19 department, if you get promoted you start at rock bottom
20 again. So, I am a mother, was a mother of a young
21 child, and when I was finally able to get to first shift
22 that's the time that people start to get promoted, and
23 that's the time that she was involved in a lot of
24 after-school activities. And, frankly, I didn't want to
25 go back to third shift again.

1 Q. **That's a pretty good reason.**

2 A. Uh-huh.

3 Q. **Who is your direct supervisor?**

4 A. My direct supervisor is Sergeant Laura Subra.

5 Q. **Are you assigned to a particular unit within the**
6 **CDP?**

7 A. Yes, ma'am. So, it's under the division of
8 training, but it's basic training.

9 Q. **And can you tell me the organizational structure**
10 **of that unit, or division rather, of the Division of**
11 **Police?**

12 A. So, I can't. It has changed so much that
13 there's been -- since we got a new chief within the last
14 year. So they have changed and moved things around so
15 much, that without seeing a supplemental chart -- I
16 mean, obviously, I know who was in my rank and file
17 above me in the chain of command, but as far as the
18 title and names, I don't know. I apologize.

19 Q. **That's okay. Can you walk me through your chain**
20 **of command then?**

21 A. Yes, ma'am. Sergeant Laura Subra. She's the
22 basic training sergeant. Sergeant Don Alverio. I'm
23 sorry. Lieutenant Don Alverio. And then, my commander
24 is Commander Mark Lang. My deputy chief is Deputy Chief
25 Jennifer Knight. And then, my chief is Chief Thomas

1 Quinlin.

2 Q. Okay. Thank you. So before we get too deep
3 into a lot of the training stuff, I want to ask you
4 generally about some policy questions. So, in general,
5 where are written policies concerning use of deadly
6 force contained in the Columbus Division of Police
7 regarding the topics that you're here to testify on
8 today?

9 A. Yes, ma'am. So they're written in our division
10 directive books. We've got division directive 201, use
11 of force policy. Of course, it's referenced throughout
12 other manuals, but most people access it via the
13 electronic system of Power DMS.

14 Q. And are there any other sources of written
15 policies beyond the division directives to use of force
16 in the Division of Police?

17 A. It's mentioned in the supervisor's manual. It's
18 also mentioned in the field report manual, which is
19 basically how we complete reports. I know it's
20 referenced there. It's also in the defensive tactics
21 training lesson plans.

22 Q. Any other sources of written policies?

23 A. That's it, ma'am.

24 Q. Any memos, or handouts during rollcall or
25 anything like that where they contain written policies

1 **about using deadly force?**

2 A. Possibly, but it's mostly that written policy in
3 the division directive.

4 Q. Okay. In terms of the division directives you
5 mentioned Power DMS as a means to review the directives,
6 is that right?

7 A. Yes, ma'am.

8 Q. **So, what's Power DMS?**

9 A. So, Power DMS, we've had many different ones
10 over the years, but that's the most recent one, which is
11 basically an electronic filing, reporting, I guess, a
12 program. Like software. And on there that's where
13 directives are put. That's where you sign off on your
14 directives that you reviewed and received it. And then,
15 it also has any type of, I guess, the policies and
16 procedures that you need to know as a sworn employee of
17 the Division of Police.

18 Q. **And how often, if at all, are CDP officers
19 required to review those directives in Power DMS?**

20 A. On a regular basis.

21 Q. **How often is a regular basis?**

22 A. Like yesterday I did I think three or four, just
23 yesterday, because I was behind. They'll release them,
24 you get an e-mail to let you know you need to get on
25 Power DMS and review those. So, it's on a regular

1 basis.

2 Q. So, in terms of what you were just describing,
3 is that for new updates to policies, is that right?

4 A. Yes, ma'am.

5 Q. Okay. And when there are policies, or
6 directives rather, that are not subject to an update,
7 for example, they've been in place for some number of
8 years, is there a regular review of those policies?

9 A. Well, you're expected, when you sign off on that
10 policy, you're expected to know it and go by it. So, as
11 far as regular review of that policy, from the time that
12 you sign it you're agreeing that you need to be aware of
13 the policy and follow it.

14 Q. So after a new policy is promulgated officers
15 are expected to review and sign off on having reviewed
16 that policy, right?

17 A. Yes, ma'am.

18 Q. Is there any subsequent requirement to review it
19 after that?

20 A. Not unless there's an update, but I know in the
21 rules of conduct you're expected to follow policy and
22 procedure.

23 Q. Okay. And in terms of the Power DMS system,
24 when did that start being a mechanism used for policy
25 review? What year?

1 A. I would say within the last two years. And
2 before that we used, it was called Connect Rule
3 Training, which was just a different software. But, I
4 could be wrong, but I think within the last couple of
5 years.

6 Q. Okay. And then, for the Connect Rule Training
7 software, do you know when that started to be used?

8 A. I don't, ma'am.

9 Q. Okay. Let me ask you this: Was there any point
10 in your career where the review of new or updated
11 policies occurred through anything other than a software
12 program?

13 A. Yes, ma'am. So we only had -- when I started we
14 would have to sign, basically it was all printed, and
15 you had to have all of your manuals. So there's three
16 manuals that you would have to have. Your division
17 directive, your aid to enforcement, which is basically
18 traffic laws and general offenses, cruiser district
19 maps. And then, also your aid to enforcement manual,
20 which had all of your criminal offenses. And any time
21 there was an update in the law, any time there was an
22 update in the policy with that new law and that update
23 in policy that was sent, so you're talking a stack of
24 papers was sent to you, and on the outside of that pack
25 of new policies and procedures you had to sign it and

1 date it, and then turn that into your sergeant.

2 Q. Okay. Do you remember around when you switched
3 from that paper based system to a computer based system?

4 A. I would say, I mean, I think probably within the
5 last, I don't know, ten, 12 years I think that we
6 switched to electronic. Somewhere around that time,
7 because then officers were given the option, because you
8 could imagine it was quite costly for 1900 employees to
9 receive, any time there was an update in a policy, all
10 that paperwork that was generated. I'm thinking -- and
11 then, if you still wanted to continue to get that paper
12 you had to actually request it. That's when that
13 switched, and obviously, during that time -- so from the
14 time that I got on until, I don't know, whenever that
15 policy was switched, you were subject to being inspected
16 by a lieutenant who would come to the -- he would just
17 show up at rollcall and he would be there and he would
18 say, "Officer Shaw, come with me and let me see your
19 books," and he would make sure that all of those updates
20 were in your books. So he was a compliance lieutenant,
21 if you will. Now, it is all done electronically, and
22 then if you do not complete those in a timely manner you
23 get a reminder from your supervisor that that needs to
24 be done.

25 Q. Okay. In both of these systems, the paper based

1 and computer based system, when CDP officers received
2 new policies or policy updates, they were required to
3 sign something, whether on paper or electronically,
4 indicating that they had reviewed the policy, correct?

5 A. Yes, ma'am.

6 Q. Was there anything that supervisors or others in
7 the department did to ensure that the person had
8 actually reviewed the policy?

9 A. I don't -- I mean, it's your signature. It's
10 your word. I think that they're expecting officers that
11 if they sign that to make sure that they review it. I
12 will say this: Come to think of it, if there was a new
13 policy at rollcall your supervisor would go over that
14 new policy. So it wasn't always just giving you that
15 stack of paper. Certainly, if it was something that was
16 meaningful to that patrol officer or, I guess, directly
17 affected that patrol officer, he would review that at
18 rollcall as well.

19 Q. Generally it sounds like an honor code system,
20 if you signed the paper we expect that you're accurately
21 and truthful expecting that you reviewed the policy?

22 A. Yes. And it continues to be that even
23 electronically. I mean, if you're signing off on it,
24 some of them I've even noticed that there's a timer
25 that's associated with reviewing that, so you can't just

1 click on it and say you reviewed it and move on to
2 something else. You actually have to spend time on that
3 page reviewing that.

4 Q. Okay. So, in theory, that's supposed to try to
5 get people to read it, but you could just sit there with
6 the document open and click through if you wanted, I
7 suppose, right?

8 A. I suppose, ma'am.

9 Q. Okay. So, officers receive a manual of
10 directives when they're first employed with the
11 division, right?

12 A. Yes, ma'am.

13 Q. And then, we've talked about update processes.
14 And if there are no updates to a policy, then there is
15 no review of that particular policy with officers unless
16 or until there's an update, right?

17 A. Yes, ma'am. That's correct.

18 Q. Okay. Is there any periodic testing of policies
19 that occurs within the CDP?

20 A. Yes, ma'am. The use of force policy. Firearms
21 policy. Mace policy. If you're a Taser user, you have
22 to take a yearly Taser test. Those are the written
23 ones. And then, on some of the rollcall trainings that
24 you have to review, they'll ask you to take a brief test
25 after that. It could be a very small one, but they want

1 to make sure that you actually reviewed the policy, so
2 they'll ask questions regarding that. But that's not on
3 all of them, just some of them.

4 Q. **That was a rollcall test, you said?**

5 A. Yes, ma'am.

6 Q. **And for those tests, how are they administered?**

7 A. So the -- well, because of Covid our use of
8 force policy this year has changed. It's now
9 electronic. But before you would go to qualify for
10 firearms four times usually, and normally in one of
11 those stages of training we'll have to complete an
12 actual written test. Now, because of Covid it's
13 electronic this year.

14 Q. **Okay. You also mentioned during rollcall that
15 sometimes supervisors would go over with a particular
16 officer policies that were especially relevant to that
17 officer. Can you explain that a little bit more to me,
18 please?**

19 A. Certainly. Sometimes policies come out and some
20 need help with making sure that, I guess, that everybody
21 understands it correctly. Recently with the body
22 camera, that policy is being updated, and a lot of those
23 are going to require a supervisor to make sure that you
24 can decipher those. They changed, I guess, one that was
25 very, very recent was the nonviolent misdemeanors

1 policy. So, arresting nonviolent misdemeanors. When
2 that policy came out I think there was three subsequent
3 e-mails from the city attorney's office explaining, I
4 guess, questions and answers, so even with the policy
5 there the officers had questions regarding how that was
6 going to affect how they completed -- I guess not
7 arrests, but how they were going to issue summons.

8 There was a lot of questions out there. I know there
9 was at least three e-mails, and that was covered with
10 the sergeants at their rollcall as well.

11 Q. Okay. And division directives provide general
12 principles and guidance to officers, and rules and
13 boundaries in some cases, regarding how to conduct
14 themselves as officers within their duties, correct?

15 A. Yes, ma'am.

16 Q. And then, officers are expected to understand
17 those principles, rules, and that guidance and use those
18 principles, rules and guidance, to make decisions in
19 specific circumstances about how they engage in their
20 duties as a police officer, right?

21 A. Yes, ma'am.

22 Q. Now, in the practical kind of being out there in
23 the world situation that officers find themselves in, do
24 CDP officers ever vary or, you know, slightly vary from
25 written policies in the way that they execute their

1 **duties?**

2 A. Yes. I would say, yes, that they do. However,
3 for those discipline is then given. I mean, you run the
4 risk of discipline if you go about it a different way
5 that it is in policy.

6 **Q. Are officers always disciplined if they go about**
7 **things in a different way than they're written in the**
8 **policy?**

9 A. No, ma'am. Sometimes they get away with it. I
10 mean, unless, if you think of the checks and balances in
11 the division directives, there's a large amount of
12 information. It's very hard for, I guess, the
13 supervisors certainly to keep track of. So I would
14 think that it would be possible for an officer to forget
15 to turn on their body camera, and then that not be
16 checked and then disciplined for that. There's
17 certainly a possibility.

18 **Q. So, sometimes officers don't comply to every**
19 **piece of a policy when they're out on the streets doing**
20 **their jobs, right?**

21 A. Yes, ma'am.

22 **Q. And then, sometimes you said they could get away**
23 **with not following things to a tee because there's a lot**
24 **for supervisors to keep track of, is that right?**

25 A. Yes, ma'am.

1 Q. Okay. So, let's talk about training concerning
2 the use of deadly force in the CDP. Can you please
3 describe for how how the Columbus Division of Police
4 trains its officers on use of deadly force?

5 A. Yes. The big picture is definitely lecture in a
6 classroom. And then, training. And then, practical
7 application of those tactics. So, that would be
8 scenario based trainings.

9 Q. Okay. And what you've just described, is this
10 like an annual inservice training?

11 A. So, what I was describing was for basic
12 training.

13 Q. Okay. Basic training involves lecture,
14 training, tactical application of tactics through
15 scenario, is that right?

16 A. Yes, ma'am.

17 Q. Okay. And what do your lectures cover?

18 A. So, civil liability in use of force. The use of
19 force policy. Case law, which continually changes, of
20 course. Action versus reaction. That's what the
21 lecture will cover. Definitely the basic training
22 level, the myths that are out there. Most people come
23 from a video culture of Hollywood, so they have ideas of
24 what officers are, I guess, capable of doing or required
25 to do, and that changes when they have that lecture.

1 We're trying to, obviously, debunk the myths that are
2 out there.

3 Q. Okay. And so, you mentioned they're trained on
4 the division policy, on civil liability, and on use of
5 force, case law, and then action/reaction and myths. Is
6 there anything else that you can think of right now that
7 is included in basic training lectures?

8 A. So, obviously, city ordinances, those are
9 covered. State law. Binding law. Supreme Court cases.
10 Those are covered as well.

11 Q. Okay. In terms of binding law that's provided
12 to officers during their basic training, who tells you
13 what the binding law is that they need to know about?

14 A. That would be our city attorney Jeff Furbee and
15 Deanna Overtte.

16 Q. Do they give you like a list of cases or
17 training materials to use for what binding case law
18 trainees need to know?

19 A. Yes, ma'am.

20 Q. Do you know whether those documents have been
21 produced to the Plaintiffs in these cases?

22 A. No, ma'am. I do not.

23 Q. Okay. Are those materials included in the
24 presentation on the use of force and civil liability?

25 A. Yes, ma'am.

1 Q. Okay. And how often do people from the city
2 attorney's office provide trainers of the basic training
3 program with binding case law that they need to use when
4 they're teaching new recruits?

5 A. Yearly. I'm sorry. Sometimes if there's a new
6 case law that comes out, and, obviously, directly
7 affects how officers' use of force -- there's plenty of
8 them, but if there's a use of force case that comes out
9 and it changes things for us, that decision is made and
10 they, obviously, need to get that training out right
11 away. So, it's not always just on a yearly basis, but
12 certainly if there's something new and case law comes
13 out, that's given right away.

14 Q. Okay. And you immediately incorporate that into
15 your basic training program once you receive that?

16 A. Yes, ma'am.

17 Q. How is that information conveyed to officers who
18 are outside of basic training at that point who are
19 already a fully functioning licensed officer?

20 A. Yes, ma'am. So that's done in legal updates,
21 which are also required that you sign off that you
22 reviewed those as well.

23 Q. For legal updates, where are the officers, like
24 sign-offs on having received and reviewed those? Where
25 are those sign-offs maintains?

1 A. Now I know they're in the electronic software
2 Power DMS. It's maintained there. Obviously, I just
3 told you it's very recent. And before that those legal
4 updates were recorded in your training record of when
5 you attended the legal updates, that yearly training.

6 Q. Okay. And those legal update reviews and sign
7 off processes went through Power DMS or on an old system
8 on paper, right?

9 A. Yes, ma'am.

10 Q. Those are part of officer training in an ongoing
11 capacity for the division, right?

12 A. Yes, ma'am.

13 Q. And once officers sign off on legal updates that
14 they received it's understood that they've received,
15 reviewed, and understand the legal update that they were
16 provided, correct?

17 A. Yes, ma'am.

18 Q. And there are records kept for all officers
19 regarding their receipt and review of legal updates over
20 the course of their careers?

21 A. Yes, ma'am. There's a training record for each
22 officer, and those are -- I don't know exactly where
23 they're kept, but I know that everybody has a training
24 record.

25 Q. Okay. So legal updates are reflected in

1 **people's training records is what you're saying, right?**

2 A. Yes, ma'am.

3 Q. **Okay. Do you know whether those training**
4 **records reflect the specific updates that people**
5 **received and reviewed, or whether there's just like a**
6 **general entry for legal updates without any detail?**

7 A. I wouldn't know without assuming, but I know
8 based on a way that the division handles everything
9 else, it would be very specific of what legal updates it
10 was based on, the month, and the day, and year.

11 Q. **Okay. So let's turn back to use of deadly force**
12 **training. You were talking to me about basic training,**
13 **the lecture, the training, the tactical application and**
14 **tactical scenarios. We've covered the lecture portion**
15 **of that at this point, correct?**

16 A. Yes, ma'am.

17 Q. **What is the training provided to the recruits?**

18 A. So, certainly the city's attorney's office is
19 the foundation for use of force training. And then, we
20 have a couple of scenarios pretty early on, and one of
21 those being an immediate response scenario. And then,
22 another one is focussed mostly on getting them to,
23 putting them in a situation and, obviously, we want to
24 determine on whether or not they know how to respond.
25 Most of the time those responses are made based upon

1 their video culture. Basically, they have that as
2 context. They have Hollywood context of what they think
3 use of force is and when they can shoot, when they can't
4 shoot. You know, shoot him in the leg. Shoot the gun
5 out of their hand. You know, The Lone Ranger type of
6 stuff. They have that in their head. Those are the two
7 scenarios that we do early on. And then, the immediate
8 response scenario that we put them through, it could be
9 a woman being raped, and we put those role players in a
10 room and put that officer in and explain that's what's
11 going on. A woman has been screaming. And then, you'll
12 have recruits sort of saunter and walk towards the door
13 instead of having that sense of urgency. We want to
14 early on realize they have that duty to protect and they
15 need to have that sense of urgency within that. You
16 would think that those things come naturally, but a lot
17 of times we have to teach that sense of urgency.

18 **Q. Okay. And in terms of scenarios that you**
19 **mentioned, how are those actually carried out as a**
20 **training mechanism?**

21 A. Okay. So, our use of force scenarios that we
22 use are specific to a level of control. There's eight
23 levels of control. I'm not sure if you've seen that or
24 not. Level zero through eight, zero being officer
25 presence, and eight is deadly force.

1 **Q.** **Is that basically the use of force continuum**
2 **that you're referencing?**

3 **A.** Yes, ma'am.

4 **Q.** **Okay.**

5 **A.** Those levels are tested. We teach them the use
6 of force policy. We teach them the continuum. And
7 then, we teach them specific skills to control a
8 subject's movements. And then, we teach them specific
9 skills on the tools on their toolbelt. So, baton, mace.
10 We put them in these practical applications and test
11 whether or not their level of force is reasonable based
12 on the scenario.

13 **Q.** **How is the testing or evaluation of their**
14 **conduct done?**

15 **A.** So, we will give them -- obviously, safety is
16 important, and safety for us is important for us as
17 well. So, obviously, we'll give them, you know, inertias,
18 mace and guns, simunition guns, and provide them a mouth
19 piece, head gear, and all of that. And we'll put them
20 through a scenario, and we have an evaluator that will
21 walk them through that scenario, and then there's
22 expected recruit actions that we expect specific to that
23 level of control that we are testing, and then they're
24 evaluated after the scenario. And then, if there's a
25 problem in the scenario or didn't pass the scenarios,

1 then, of course, we have to redo that area in which
2 they, I guess, reacted wrong or had a poor understanding
3 of what level of control was reasonable.

4 **Q. And in those scenarios, then, you mentioned,
5 obviously, the students, the evaluator. Are there
6 people acting out other roles as part of that scenario
7 in an interactive experience for the student?**

8 A. Yes, ma'am. We primarily use the defensive
9 tactics instructors as those role-players. And then, we
10 definitely have, I can say it's a defensive tactics
11 instructor that's also doing the evaluating with them.

12 **Q. Okay. And if someone in the recruitment class
13 fails a scenario, what is done to address that failure?
14 You mentioned like going through that issue with them
15 again, but how is that done?**

16 A. Sure. So, we videotape most of the scenarios.
17 Certainly the body cameras, the recruits have body
18 cameras, so that helps as well. We'll go over the video
19 with them, go over the use of force continuum with them,
20 and then retest them. Obviously, if they're -- let's
21 say, for instance, that they're not using an impact
22 weapon correctly. They're not striking at one hundred
23 percent, weak strikes or something along those lines.
24 Then, we would also hit that skill based training and
25 then do another scenario.

1 Q. Okay. And if, for example, a person was using
2 force when it was not warranted under the use of force
3 continuum under the policies, under the law, how is that
4 retested?

5 A. That same course of reviewing the video,
6 reviewing the use of force continuum, policy of force,
7 and then putting them through that scenario again. And
8 then if they don't pass those scenarios -- most of the
9 time if anybody fails out of the academy during use of
10 force training, it's because they used too much force
11 and we weren't able to bring them down. We'll have
12 recruits that come through there and will mace, punch,
13 hit with a baton, every single, you know, role-player no
14 matter the scenario. So, obviously, they have this --
15 sometimes they just don't understand it. Sometimes
16 they're not able to control it, and those are the ones
17 that are terminated.

18 Q. Those people are failed out of the academy then?

19 A. Yes.

20 Q. Are they ever able to reenter the academy and
21 attempt again to go through that process to become an
22 officer?

23 A. Since I've been here, we haven't had anyone of
24 the over-reactors that have come through again, because
25 if they applied for reinstatement from civil service,

1 that comes to the academy and to the recruit training
2 sergeant, it's then their responsibility to --

3 **Q. I'm sorry. You cut out there.**

4 A. If someone applies for reinstatement for civil
5 service, then that request for reinstatement comes back
6 to the academy chain of command, and they recommend
7 whether or not that person should be reinstated or not.

8 **Q. Okay. So, the purpose of these scenarios, and**
9 **then if someone fails a scenario to reteach, provide**
10 **feedback and retest, the purpose of that is to ensure**
11 **that people either understand the law and policies and**
12 **their duties as an officer, or to weed out people who do**
13 **not understand those things, is that right?**

14 A. Yes, ma'am. First and foremost, our mission is
15 to train. So we want them -- the city has invested a
16 lot of money in that candidate so we definitely want to
17 train them. That's definitely first and foremost. But
18 certainly if they don't meet those expectations after
19 all that mediation, then they'll be terminated if they
20 don't understand that use of force policy.

21 **Q. In recruit training and basic training, how many**
22 **hours of training do new recruits receive before they**
23 **can become officers?**

24 A. Specifically use of force training?

25 **Q. I guess overall first.**

1 A. That number has continuously changed, and
2 honestly, since 2014 after Ferguson, the hours have gone
3 up exponentially. It's always been right around 28
4 weeks that the Columbus Division of Police has in
5 training, and that's well and beyond what the state
6 requires, but I don't have -- I can get those numbers
7 for you. I just have to check with our security.

8 Q. **Let me ask a different question, I guess. How**
9 **many hours of whatever that total period of time is are**
10 **spent on use of force training?**

11 A. So, the state requires 78 hours, and just on a
12 guestimation of how many additional hours we spend, at
13 least, 120 hours or more. So, you figure the state
14 requires 78, we're doubling it and then some.

15 Q. **Okay. And how many hours specifically are spent**
16 **on use of deadly force training in recruit training?**

17 A. It's not -- we don't separate it. It would be
18 nearly impossible for me to separate it by use of force.
19 I guess from level zero to seven, so officer presence
20 to, you know, to boxing, takedowns, all of that.
21 Because deadly force is talked about even in those
22 topics as well, but it would be -- I can't separate the
23 two. For instance, in baton training that we have, so
24 an impact weapon, baton training, depending on where you
25 strike someone with that baton could be deadly force.

1 So you can't take a baton and hit someone in the head.
2 That's deadly force. But that's taught at the same time
3 hitting pain compliance target versus injury targets.
4 It's all encapsulated into one.

5 Q. Okay. So, for officers who joined before
6 Ferguson, around 2014 or so, they had a shorter basic
7 training period, right?

8 A. Yes, ma'am.

9 Q. Do you know how many hours, or weeks? And I'm
10 going to ask about specific people right now.

11 A. Okay.

12 Q. For Officer Keith Abel, do you know how many
13 hours of basic training he received?

14 A. No.

15 Q. Do you know how many hours Officer Narewski
16 received in basic training?

17 A. No.

18 Q. How about Officer Baase, do you know how many
19 hours he received in basic training?

20 A. No, ma'am.

21 Q. Or Officer Mason, do you know how many hours he
22 received in basic training?

23 A. No, ma'am.

24 Q. Okay. Do you know how many hours any of those
25 officers received in basic training pertaining to use of

1 **force?**

2 A. No, ma'am.

3 Q. And do you know how many hours any of those
4 officers received in basic training pertaining to use of
5 deadly force?

6 A. No, ma'am.

7 Q. Do you know whether all of those officers
8 received their basic training from the Division of
9 Police itself?

10 A. Yes, ma'am.

11 Q. So, they all did receive their basic training
12 through the CDP?

13 A. Yes, ma'am.

14 Q. Okay. In terms of their training academy
15 histories for Abel, Baase, Narewski, and Mason, did you
16 undertake any search for documentation or information
17 that would allow you to answer questions about their
18 basic training?

19 A. No, ma'am.

20 Q. Okay. Let's turn back now to people who are out
21 of basic training who are now officers in the division.
22 Let's come back to this question about training on
23 deadly force for them. Can you please outline for me
24 how the CDP trains its officers who are done with basic
25 training and are now on duty?

1 A. Yes, ma'am. It's going to start with lecture.
2 Every phase training starts with lecture, a review of
3 the use of force policy, and then, we hit the skills.
4 So, that could include Taser, baton. That's hands-on,
5 so that's working on those hands-on skills. And then,
6 that's followed up with scenarios that are pertinent to
7 any type of policy changes, or anything that the
8 division as a whole has seen that's problematic. They
9 hit those areas as well.

10 Q. **Are scenarios always used in that officer**
training, or just when there's some kind of policy
change or problematic issue in the division?

13 A. As long as I've been in the department phase
14 training has always incorporated scenarios.

15 Q. **Okay. And the scenarios, are they carried out**
in the same way that you described for recruits?

17 A. Yes. Yes. I mean, there's certain things that
18 aren't. If you're at the basic training level, it's
19 going to be those scenarios are a lot more physical. We
20 put them in -- I mean, they have a mouth piece, they've
21 got head gear, and they'll actually get struck in the
22 face. The scenarios that the officers go through, that
23 same type of physicality, is more focussed on policies,
24 procedures, and skills.

25 Q. **Why is there that difference, the more physical**

1 **training involving what sounds like a more realistic**
2 **role-play in use of force than something that's more**
3 **academic? It that a fair characterization?**

4 A. I hope I didn't overstate it, but certainly it
5 comes down to injuries. And then, also, you have to
6 figure that the recruits that we put through these
7 scenarios get regular PT. I mean, nearly every day they
8 get the physical fitness training. And then, they're
9 actually getting weekly boxing training, weekly ground
10 fighting training. You're talking the difference of --
11 you know, basically we're creating a skill set with the
12 recruits, and once the skill set is there, we're testing
13 them based on a different skill set, if you will. That
14 foundation has been established. At the recruit level
15 that skill set has not been established yet. Those
16 scenarios, I can't imagine if we had officers come in
17 off the street and had them box and take hits to the
18 face, and the concussions on a yearly basis, what that
19 would mean for their health. That would outweigh the
20 benefits I think at that risk.

21 Q. **Okay. So, for the officers then, even if**
22 **they're in scenarios that involve less potential for**
23 **injury, are they tested to see whether they pass or fail**
24 **those scenarios in a similar manner to the recruits?**

25 A. Yes, ma'am. Yes.

1 **Q.** And so, is there an evaluator there observing
2 their conduct in making a determination as to whether
3 they pass or fail the scenario training?

4 **A.** Yes, ma'am. Every scenario is going to have
5 what we call control and safety, so that control, and
6 then you're going to have that evaluator as well.
7 Depending on how risky the scenario is, obviously, you
8 might need more safety officers.

9 **Q.** What are safety officers in a scenario?

10 **A.** So, safety officers are out of play. They're
11 there to protect the role-players as well as the
12 officer, or recruit going through the scenario. They
13 also conduct searches to make sure that no live weapons
14 get introduced into scenarios. And, obviously, we want
15 to make the scenarios as realistic as possible, but we
16 don't want to create injuries to recruits or officers.
17 However, if they don't have that skill set, we have to
18 be a little bit more physical at the recruit level,
19 basic training level than the officer level.

20 **Q.** What's a control officer in a scenario?

21 **A.** They're in charge. What they say goes. For
22 instance, from time to time we have the upper echelon
23 might come in and watch the scenarios, or officers from
24 other agencies possibly. We've had that before. And
25 that control officer, it doesn't matter what rank they

1 are, if they say, you've got your gun on your hip, it
2 needs to be out in that scenario. They're in charge of
3 that scenario.

4 **Q. Is the evaluator for scenarios with officers**
5 **going through training, is that evaluator a defensive**
6 **tactics instructor?**

7 **A. Yes, ma'am.**

8 **Q. You mentioned a couple of times the risk of**
9 **weapons being present or introduced in a scenario**
10 **training situation. Has that been a problem in the past**
11 **in the CDP?**

12 **A. No, it has not. Thank the Lord. It's happened**
13 all over the country where typically, especially during
14 phase training with officers, you know, even your safety
15 officers will leave for lunch and they exchange that
16 safety gun on their hip with a real gun, and then
17 sometimes that's where mistakes happen. We're very --
18 we strive for everybody to be safe and make sure that
19 that doesn't happen.

20 **Q. And then, if an officer fails their scenario**
21 **training, what happens?**

22 **A. So, if an officer fails that scenario training,**
23 then we're always going to have a debrief with that
24 officer. And then, obviously, talk about things that
25 they could have done better or things that we're looking

1 for in the scenario.

2 Q. **Is that debrief documented anywhere?**

3 A. It is at the basic training level. I don't know
4 if they document that at the officer level.

5 Q. **Is the failure of a scenario training at the
6 officer level documented anywhere?**

7 A. I don't know the answer to that, ma'am.

8 Q. **Have you undertaken any search for documents or
9 information to allow you to answer questions about
10 scenario based training for individuals at the officer
11 level concerning use of force?**

12 A. No, I have not.

13 Q. **Before you came here today, did any attorney
14 advise you that you do have a duty to conduct a good
15 faith search for documents or information for the topics
16 in which you are designated to testify?**

17 A. Yes, ma'am. I'm sure I was.

18 Q. **And you didn't undertake that search or find out
19 any information on the details of use of force training
20 for the officers before you came here today?**

21 A. Not specifically that.

22 Q. **All right. In your experience as an officer,
23 have you ever seen or heard of a failure of a scenario
24 training event for an officer level individual
25 documented anywhere?**

1 A. Yes, ma'am.

2 Q. **Can you explain that to me?**

3 A. So, I know that there was a training sergeant --
4 I'm sorry. A sergeant that went through training, and
5 it was so poor that they determined that there was
6 something physically wrong with him. And so, I know
7 that that was done, and I know that there was a letter
8 written up about that.

9 Q. **Okay. Have you ever heard of or witnessed any
10 other event where an officer failed a scenario training
11 and that failure was documented?**

12 A. I don't know if when they go through those
13 scenarios, I don't know if they're documenting pass or
14 fail at the officer level.

15 Q. **When you provided defensive tactics training to
16 officer level members of the division, do you recall
17 whether at that time there was any documentation of
18 failing scenario training?**

19 A. I don't believe that there was.

20 Q. **And at that time, do you recall whether there
21 was any written document of the debriefing and what the
22 officer could have done better?**

23 A. I don't believe so, ma'am.

24 Q. **Okay. And do you have any reason to believe
25 that that practice has changed from the time that you**

1 **were a defensive tactics instructor to now?**

2 A. I do not.

3 Q. Okay. Now, what you just described to me, you
4 mentioned lecture, review of the use of force policy,
5 and then, skills and scenario training. Are you
6 describing to me inservice training, or is it something
7 else?

8 A. That's inservice training. Starts off with
9 lecture, skills, and then scenarios.

10 Q. Okay. And the lecture is typically provided
11 with the aid of a PowerPoint presentation, right?

12 A. Yes, ma'am.

13 Q. And how often is that inservice training
14 provided to CDP officers?

15 A. Other than this year, yearly.

16 Q. What do you mean, "other than this year?"

17 A. Because of Covid they cancelled the training
18 because of risk of exposures.

19 Q. Do you know whether there's any alternative
20 training that the division is offering in lieu of the
21 in-person training?

22 A. Yes, ma'am. There's videos online as well as a
23 use of force policy test.

24 Q. Okay. Is there, as part of that inservice
25 training every year, a test on the use of force policy?

1 A. Yes, ma'am.

2 Q. For that test, is it different every year or is
3 it the same from year-to-year?

4 A. It will be the same from year-to-year, unless
5 there has been any changes to that policy.

6 Q. Okay. And so, then, I guess, how often is that
7 test updated in your experience as a trainer?

8 A. Certainly before phase training, before that
9 instruction is to be given, before that lecture is to be
10 given, if there's a change to that policy the test will
11 be changed prior to the beginning of that training.

12 Q. Okay. So when the division updates its policies
13 is dictated when the change to the use of force test
14 occurs, is that right?

15 A. Yes, ma'am.

16 Q. Do you know from, let's say -- you were an
17 officer in 2000, right? That's when you started?

18 A. Yes.

19 Q. From 2000 to present how many times the use of
20 force policy has been updated?

21 A. I do not no but I can tell you that it's been
22 updated twice in the last seven, eight months.

23 Q. Okay.

24 A. So from -- so it depends. If there's a change,
25 that's unusual, but this has been an unusual time for

1 policing.

2 **Q. What do you mean?**

3 A. As far as the use of force policy from our
4 chemical mace from the riots this summer, the use of
5 force policy changed after that. Certainly they wanted
6 to be very specific in the use of force policy after
7 what happened with the George Floyd, that no way, no
8 how, that any type of neck restraint, any type of
9 chokehold would be used. That it wouldn't be considered
10 anything but deadly force. So that's changed. They
11 changed in December, there was another change, and that
12 was, I believe because CALEA, so displaying a firearm
13 before, that was not something that was kept track of
14 before, but now from December on that has. Those have
15 been two changes or updates, I think, from maybe July to
16 December. So I think there was a change in policy from
17 July, and then a policy change in December. I don't
18 know how many times it's changed from 2000. I don't
19 know the answer to that.

20 **Q. Okay. So, CALEA now requires tracking every**
21 **time an officer draws their weapon, is that right?**

22 A. That's what was told to us in the training.

23 **Q. And CALEA is C-A-L-E A, right?**

24 A. Yes.

25 **Q. And that's an accreditation organization for**

1 **police departments?**

2 A. Yes, ma'am.

3 Q. **Do you know whether that new policy requires**
4 **tracking if an officer removes the weapon from the**
5 **holster, or only requires tracking when an officer**
6 **raises and points that weapon?**

7 A. The latest one is when you're actually pointing
8 it at a suspect. For instance, if you're going to
9 search a building, your gun is drawn, you point your gun
10 at that high ready while you're searching, and you don't
11 find anyone, it's not reported in that instance because
12 there was a suspect or business owner inside the
13 business.

14 Q. **Does the Columbus Division of Police consider**
15 **pointing a weapon at a person a use of force?**

16 A. Yes. As of December. Yes, ma'am.

17 Q. **Before December it did not?**

18 A. No, ma'am.

19 Q. **Do you know whether that position of the**
20 **Columbus Division of Police comports with Supreme Court**
21 **cases on the matter?**

22 A. As far as reporting, I know from agency to
23 agency, and we train a lot of different agencies, and
24 their uses of force policies are quite different than
25 ours as far as their reporting. But I don't know of any

1 Supreme Court case which requires the pointing of a
2 firearm to be -- to have to report that.

3 Q. **I'm not asking about reporting, but just that**
4 **pointing a weapon at a person constitutes a use of**
5 **force. You said that was considered a use of force by**
6 **the division starting in December of 2020, correct?**

7 A. Yes, ma'am.

8 Q. **Was it considered a use of force by the division**
9 **prior to 2020?**

10 A. No, ma'am.

11 Q. Okay. And do you know whether that position,
12 that pointing of a gun at a person constitutes a use of
13 force, whether that position prior to 2020, which was
14 no, it does not, do you know whether that comports with
15 binding law, whether from the Supreme Court or the Sixth
16 Circuit Court of Appeals?

17 A. I would say as far as reported use of force that
18 level zero like it is now, so pointing of a firearm at
19 someone, the definition of force is in the violent
20 compulsion restraint physically asserted upon a person.
21 I would say that even before that policy was changed it
22 would fit the definition, the state's definition of a
23 use of force. In my humble opinion it would fit that.

24 Q. **But, the division did not consider it a use of**
25 **force is what you're saying?**

1 A. Not that it didn't consider it. I think that it
2 didn't make it reportable.

3 Q. Okay. We were talking about the annual
4 inservice. We talked about the lecture. We talked
5 about the policy test. We talked about some changes in
6 the use of force policy. You mentioned two changes in
7 the past year, and related changes in the test. So I
8 assume then, that the use of force test has been updated
9 in light of these two changes to the use of force
10 policy, is that right?

11 A. Yes, ma'am.

12 Q. Do you know whether there were any changes to
13 the use of force policy between 2010 and 2016?

14 A. To the test, ma'am, or to our policy?

15 Q. To the policy.

16 A. Yes, there was.

17 Q. And when did those occur?

18 A. I would have to -- I don't know that, ma'am.
19 I'd have to contact research and development. I know
20 they keep track of the dates of when those policies are
21 changed.

22 Q. Okay. If we take a break, would you be able to
23 find out when the updates of the use of force policy
24 occurred between 2010 to present?

25 A. How many times, ma'am?

1 Q. Yeah. And the dates that they were updated.

2 A. Do you want me to also find out about your
3 question as far as the scenarios that they keep track of
4 during inservice training? I could make a phone call
5 for that question.

6 Q. Sure. That would be great. Thank you.

7 A. Of course.

8 Q. Before we take a break, I just want to go
9 through a few more things related to this topic. You
10 mentioned the inservice training. This is an annual
11 training offered to Columbus Division of Police
12 officers, correct?

13 A. Yes, ma'am.

14 Q. Are officers required to attend the annual
15 inservice training?

16 A. Yes, ma'am.

17 Q. What happens if they don't attend?

18 A. There's a make-up date that they have to go to.
19 Most of the time they miss because of injury or if
20 they're deployed. And if they're injured or deployed,
21 then they have to come back to that training before they
22 hit the streets, before they go back to patrol.

23 Q. Okay. And if they miss a make-up session, what
24 happens, then?

25 A. So if they miss the make-up session, then a date

1 will be afforded during the year. If you missed it,
2 then you have to attend during these dates. I mean,
3 it's limited because, obviously, it requires a lot of
4 people to put on that training, so it's not like you can
5 say go whenever you want. Obviously, that has to be
6 scheduled.

7 Q. **Has it ever happened that officers missed those
8 blocks of dates in a given year and failed to complete
9 any annual inservice training?**

10 A. If they miss it, they have to make those up.

11 Q. **And what happens if they miss that second set of
12 dates though?**

13 A. They can't. They're not allowed to miss them.
14 So, those always have to be made up.

15 Q. **And if, let's say, they were still injured,
16 deployed, or otherwise unable to attend a later block of
17 dates, are they then prevented from working on duty as
18 officers until they take the training?**

19 A. I know for those that are deployed, when they
20 come back to the division they'll spend sometimes
21 upwards of a couple of weeks making up all of that
22 training that they missed while they've been gone, and
23 they're in plain clothes and not working in the streets.
24 So, that I know for sure for people that are deployed.
25 For people that are injured, if they do miss that

1 training, then they're expected to come whenever that
2 make-up session is scheduled for.

3 **Q. Has it ever happened that an officer has not**
4 **completed that make-up session?**

5 A. Not that I'm aware of. I wouldn't even believe
6 that would be, even be an option.

7 Q. Okay. Does the annual training involve any
8 firearms requalification?

9 A. Yes, ma'am.

10 Q. And how often do CDP officers do firearms
11 requalification?

12 A. Normally every quarter.

13 Q. Okay.

14 A. There's phase one, two, three, and four.

15 Q. And are those firearms requalification records
16 considered part of an officer's training record related
17 to deadly force?

18 A. So, if someone requalifies we're testing their
19 accuracy with that firearm and, obviously, if they are
20 not accurate with that firearm, then they're not allowed
21 to carry that firearm per the state. The accuracy is,
22 obviously -- as far as could that be defined as part of
23 their deadly force training? I suppose it could. But
24 there's phase training that we do at firearms, which is
25 division-making courses. So, basically you have someone

1 that's, obviously, friendly. So, obviously, not
2 presenting that deadly threat to that officer, and
3 obviously, that's not someone that you would be
4 justified in shooting. So, that phase of training I
5 would consider more of a deadly force training versus
6 shooting at a paper target to determine accuracy. But
7 under the definition of you need to be accurate if you
8 use -- I don't know if the division considers that
9 deadly force training.

10 **Q. Okay. At firearms requalification what goes on
11 as part of that process?**

12 A. So, you come in and you take the use of force
13 policy test. And then, depending on what phase of
14 training it is, they may, you know, go over anything new
15 with the firearm. The use of the shotgun. Obviously,
16 there will be retraining there. They go over sight
17 fixture. Go over the phase of firing once you get on
18 the range. Then, they walk you down and, obviously, get
19 you loaded up on the range. And depending on what that
20 course of fire is, you'll complete it, and then they'll
21 score it. If you failed it, then you have to shoot it
22 again.

23 **Q. During firearms requalification is there any
24 review of the CDP use of deadly force policies?**

25 A. Yes. Because we take that use of force policy

1 test.

2 Q. And you do that during requalification?

3 A. Yes, ma'am. That's normally done before we even
4 go into shoot.

5 Q. So, is the use of force policy test taken then
6 at firearms requalification, which happens quarterly,
7 and also at the annual inservice training?

8 A. So, I'm sorry. It would be the firearms policy.
9 I'm sorry. The firearms policy test is at firearms, and
10 then the use of force policy would be at phase training
11 with the defensive tactics unit. I apologize.

12 Q. What's the difference between the firearms
13 policy and the use of force policy? What separate
14 topics do they cover?

15 A. So, the firearms policy is going to be more
16 specific to deadly force, where the use of force policy
17 is going to cover basically all those levels of control,
18 including Taser, baton, mace, and those things.

19 Q. Beyond the annual inservice training and
20 firearms requalification, is there any other use of
21 deadly force training provided to CDP officers?

22 A. It would depend on -- the only other area where
23 I could see that would be covered other than, obviously,
24 if there was some other type of use of force policy
25 change, would be at the legal updates class, and that

1 would be determined on whether or not that was a point
2 of discussion coming from the city attorney's office.

3 Q. Okay.

4 A. So, those topics on those legal updates are just
5 as it sounds. It's legal updates. So, things that have
6 happened in case law that have been updated and,
7 obviously, if there's a new update in regards to deadly
8 force, then that would be covered there.

9 Q. And those legal updates, when they happen,
10 happen either in the old days through handout that you
11 had to sign-off on, or now through software based
12 systems where you have to review the update and sign-off
13 through the update, is that right?

14 A. Yes, ma'am.

15 Q. Okay. And beyond those things then, inservice,
16 legal updates, and firearms requalification, is there
17 any other deadly force training provided to CDP officers
18 on an ongoing basis?

19 A. No, ma'am.

20 Q. Okay. Turning back to the inservice training
21 and the scenarios that we were talking about earlier, in
22 your experience as a defensive tactics instructor, how
23 many times did you see officers fail the scenario
24 training? And I'm talking about officers, not recruits
25 at this point.

1 A. It was very rare. Very rare when you would see
2 anybody consider failing a scenario. And I don't even
3 -- yeah. It was very rare. There's always going to be
4 talking points with tactics that as far as having some
5 type of excessive use of force, or a tactic that we
6 certainly wouldn't want them to do on the street, that
7 would be very rare.

8 Q. **As a trainer for defensive tactics to officers,
9 did you see in those scenario trainings officers
10 engaging in what would be considered excessive force
11 that required addressing with talking points afterwards?**

12 A. Yes, ma'am.

13 Q. **And how often did that happen in the scenario
14 training?**

15 A. Where the decision afterwards happened? It
16 happened on every scenario regardless of pass or fail,
17 but obviously if they failed that scenario then, that
18 would be something that they would address in that
19 debrief as well.

20 Q. **Would an officer who used what, under the
21 scenario, would have been excessive force, were they
22 always to have considered to have failed the scenario if
23 that happened, or were there times that they still
24 passed under those circumstances?**

25 A. So, that goes down to whether or not there's a

1 written record of them actually passing or failing that
2 scenario, and that's what I want to make a phone call
3 down to that defensive tactics unit to see if there's an
4 actual, if you will, check-off list, like of expected
5 officer actions on that scenario. I don't know if they
6 are doing those presently or not. I apologize. I would
7 have asked if I knew that was going to be a question for
8 me to know.

9 **Q. Okay. In terms of what we discussed for officer**
10 **training the inservice training firearms**
11 **requalifications, and legal updates, as avenues for**
12 **deadly force training for officers, was that the case**
13 **from 2010 through 2020, those are the three sources?**

14 A. Yes, ma'am.

15 Q. **And was that the case even before 2010?**

16 A. Yes, ma'am.

17 MS. GREENE: Okay. Let's take a break
18 and go off the record.

19 - - - -

20 (Thereupon, an off-the-record discussion was held.)

21 - - - -

22 MS. GREENE: Back on the record.

23 BY MS. GREENE:

24 Q. **Okay. So, Officer Shaw, on the break you were**
25 **going to make a phone call to find out about whether or**

1 **not officers who are involved in scenario training**
2 **during the annual service whether passed or failed the**
3 **scenario based trainings were documented in any way?**

4 A. Correct, ma'am. So I called down to the
5 defensive tactics unit and asked them about the
6 question. He said that there is on their checklist for
7 the day, it has a pass, fail, on whether or not they
8 pass certain skills. And on there as part of that
9 training for the day, it lists scenarios, and that's
10 also a pass or fail. However, he said that when someone
11 goes through the scenario, if they fail the scenario,
12 they debrief it and have them go through it again.
13 There's no record on who failed that specific scenario
14 for that day.

15 So they didn't know of any other one other than
16 the one that I had mentioned to you about someone being
17 able to complete the scenario. Now, they did add
18 that -- his name is Chris Cheatham. He's is defensive
19 tactics training sergeant. He's sent people home for
20 basically their attitude as far as not going through the
21 training and not being fully engaged. But other than
22 that one incident he's never sent someone home and come
23 back on another day and redo the scenario for that
24 scenario based training. The control officer fixes that
25 problem, debriefs it, and then has them go through that

1 scenario again, but they're not keeping a record at this
2 time when someone fails a scenario.

3 Q. Okay. So, as far as you know, during your time
4 in the department, then, it sounds like officers going
5 through training scenarios, if they fail a scenario,
6 other than that one guy, we don't have any documentation
7 of that other than specifically for that officer?

8 A. Yes, ma'am.

9 Q. Do you know when people do fail certain
10 scenarios, even if that's not documented, if that
11 results in any kind of specific retraining for that
12 individual officer?

13 A. That normally happens out of discipline. So,
14 let's say that a suspect is able to get a gun into a
15 detention center because an officer did an improper
16 search, that specific officer would be sent out to the
17 defensive tactics units and they would be retrained on
18 doing searches. The ones coming out of discipline are
19 more specific to those officers depending on what they
20 have handled incorrectly.

21 Q. Retraining is offered in response to actual
22 conduct on the job after a disciplinary finding has been
23 made in the chain of command, but not in response to
24 conduct at a scenario based training, is that right?

25 A. Well, at the scenario based training they

1 correct it right there, right away. They debrief it,
2 and have them redo the scenario right there. However,
3 they do not have basically an evaluation sheet for each
4 officer how they completed it the first time, how they
5 completed it the second time, notes about those
6 officers.

7 Q. Understood. Now, you also were going to check
8 on the dates of updates for the use of force policy on
9 our break. Did you get a chance to do that?

10 A. Yes, ma'am.

11 Q. Okay. What can you tell me about the dates that
12 the use of force policy was updated?

13 A. Okay. So, from March 15th of 2008, there was an
14 update April 15th of 2010.

15 Q. I'm sorry. You cut out for a second on that
16 2010 date. Can you say the 2010 date again.

17 A. Yes. April 15th of 2010.

18 Q. Okay. Thanks.

19 A. You're welcome. The second change was April
20 15th of 2010, that was in effect until June 30th of
21 2014. The third change was from June 30th, 2014, that
22 was in effect until June 30th, 2015. From June 30th,
23 2015, it was in effect until December 30th, 2017. A
24 fifth change was December 30th, it was in effect until
25 July 12th, 2020. And then, the sixth change was July

1 12th, 2020, and that was in effect until December 30th
2 of 2020.

3 **Q. Okay. Thank you.**

4 **A. You're welcome, ma'am.**

5 **Q. The cases that you're here today to testify**
6 **about involved shootings that occurred in February of**
7 **2015, October of 2015, and September of 2016, correct?**

8 **A. Yes, ma'am.**

9 **Q. So, based on the dates that you just gave me, it**
10 **sounds like two different policies would apply to that**
11 **set of shootings, correct?**

12 **A. Ms. Greene, what were the dates again?**

13 **Q. February 6th, 2015. October 29th, 2015, and**
14 **September 14th, 2016. So, it sounds like two different**
15 **use of force policies apply to those three shootings,**
16 **correct?**

17 **A. Yes, ma'am. The changes -- so the use of force**
18 **policy, it used to be called action response to**
19 **resistance, and that was from June 30th -- I'm sorry,**
20 **from June 30th, 2014. That was changed to use of force**
21 **on June 30th, 2015. And then, in December -- I'm sorry.**
22 **June 30th, 2015, until December 30th, 2017. So December**
23 **30th, 2017 they changed the number of the directives**
24 **from 3.25 to 2.01. What I don't know is if it's just**
25 **the title that was changed in 2015, and then, if it was**

1 just the number that was changed in 2017. I don't know
2 about the content of the actual policy. I don't know
3 that there was a change in the actual content of the
4 policy without seeing it.

5 Q. So you don't know as you sit here right now
6 whether there were any substantive changes in the use of
7 force policy for the Columbus Division of Police on that
8 June 30th, 2015 update?

9 A. Yes, ma'am.

10 Q. Have you reviewed the policy that was in place
11 from June 30th, 2014, to June 30th, 2015?

12 A. I've reviewed it in the past. I did not review
13 it this morning.

14 Q. What about the policy from June 30th, 2015, to
15 December 30th, 2017, did you review that one for today?

16 A. No, ma'am. I did not.

17 Q. Do you happen to have access to both of those
18 policies?

19 A. I could get access. I would have to make a
20 phone call. I apologize.

21 MS. GREENE: Bill, correct me if I'm
22 wrong, but I believe that the only division rules
23 policies directive manual that I have is the one that
24 was revised through December 30th, 2014. I could double
25 check.

1 MR. SPERLAZZA: December of what year?

2 MS. GREENE: 2014.

3 MR. SPERLAZZA: Okay. And Officer
4 Shaw thinks there was a change after that?

5 MS. GREENE: Yeah.

6 MR. SPERLAZZA: Do you think that one
7 applies to the incidents of these three cases?

8 MS. GREENE: Well, I assume that the
9 policies through December 30th, 2014, including the use
10 of force would apply to the England shooting, because
11 that happened in February 2015 before that June 2015
12 update. But for Bell-McGrew and King, those would fall
13 under the subsequent policy. I'll double-check my
14 records, but I want to make sure that we have both of
15 those sets of policies.

16 MR. SPERLAZZA: Check to see if you
17 have them. And if there's something that you're missing
18 as simple as that, it should not be a problem to get.
19 The hard part would be --

20 MS. GREENE: The hard part would be,
21 what? I'm sorry.

22 MR. SPERLAZZA: The hard part would be
23 me finding it, but once I find it I'll get it to you.

24 MS. GREENE: Absolutely.

25 BY MS. GREENE:

1 Q. Okay. I'm going to show you a document, Officer
2 Shaw. Do you see the document on the screen right now?

3 A. Yes, ma'am.

4 Q. Okay. So, this is the division rules, policies,
5 and directives manual that was in effect through
6 December 30th, 2014, right?

7 A. Yes, ma'am.

8 Q. And so, the use of force policy based on what we
9 just discussed that's contained in this document should
10 be the one that applied during the time of the police
11 involved shooting of James England of February 6th,
12 2017, correct?

13 A. Yes, ma'am.

14 Q. I'm going to skip to the table of contents, and
15 I would like for you to tell me in this document which
16 policy numbers apply to use of deadly force. I see
17 under the rules of conduct, rule 1.19. Do you see this
18 here on the bottom of the page stamped Columbus 003085?

19 A. Yes, ma'am.

20 Q. That policy applies to use of deadly force,
21 correct?

22 A. That was in the rules of conduct. If you want
23 to know the actual policy, I believe it would have been
24 3.25 at that time.

25 Q. Okay. Do the rules of conduct also constitute a

1 written policy of the division?

2 A. Yes, ma'am. Specifically deadly force. I don't
3 know if it's in the rules of conduct, without reviewing
4 it.

5 Q. Okay. And you haven't had a chance to review
6 the rules of conduct today before the deposition?

7 A. No, ma'am.

8 Q. Okay. So, rule of conduct 1.19, use of force;
9 1.20, use of firearm; 1.21, display of firearms, those
10 seem to me like the rules of conduct that likely apply
11 to use of deadly force. Are there any others that
12 you're aware of in this particular set of division
13 directives?

14 A. It should be 3.25.

15 Q. Okay. So, you're talking about policies which
16 are listed a little further down in the table of
17 contents. And now, here we are on page Columbus 003087,
18 and we see policy 3.25. Is that what you're referencing
19 here?

20 A. Yes, ma'am.

21 Q. Okay. And are there any other policies listed
22 here that would have applied at the time of the shooting
23 of James England on February 6th of 2015 to the use of
24 deadly force?

25 A. 3.23, the firearms regulations. 3.24,

1 discharged firearms.

2 Q. **Anything else?**

3 A. Not that I can see on that page, ma'am.

4 Q. **Would you like me to scroll to another page for**
5 **you to look?**

6 A. Yes, ma'am. Thank you.

7 Q. **Anything on this next page, Columbus 003088?**

8 A. No, ma'am.

9 Q. **Okay. What about this next page, 003089?**

10 A. No, ma'am.

11 Q. **Okay. And let's check the first two pages of**
12 **the policy. I guess the first page of the policy, we**
13 **did go through that, Columbus 003086. Do you see**
14 **anything there that pertains to use of deadly force?**

15 A. Indirectly, 1.48. Compliance with EEO laws,
16 rules, orders, policies and directives. Disregard,
17 ma'am. No.

18 Q. **Okay. And I don't have up in front of us right**
19 **now the subsequent directives manual, but would the**
20 **equivalent policies that were in effect from June 30th,**
21 **2015 to 2017, those equivalent policies would also**
22 **pertain to use of deadly force, right? That updated**
23 **manual?**

24 A. Yes, ma'am.

25 Q. **Do you know whether any additional policies were**

1 added in-between those times concerning use of deadly
2 force?

3 A. No, ma'am. I'm sorry. There have been, ma'am.

4 | Q. All right.

5 MS. GREENE: I'm going to mark this as
6 Exhibit 1.

7 | - - - -

8 (Thereupon, Plaintiff's Exhibit 1 was marked for
9 identification.)

— — — —

11 BY MS. GREENE:

12 Q. Let's go back to the annual inservice training
13 topic for a bit. And you mentioned there's use of force
14 tests administered during that training, right?

15 A. Yes, ma'am.

16 Q. Now, in that structure of that program, you
17 start off with a PowerPoint presentation and lecture?

18 A. Yes, ma'am.

19 Q. And immediately following that the use of force
20 test is administered?

21 A. Yes, ma'am. It depends on if you're a Taser
22 holder as well, then there's an additional test that you
23 have if you carry a Taser. Obviously, if you're in the
24 detective bureau and you don't have a Taser, you
25 wouldn't take that additional test as well.

1 Q. Okay. But, the use of force test, not the Taser
2 test, is right after that PowerPoint presentation, then?

3 A. Yes, ma'am.

4 Q. So, on the information that the officers just
5 were taught or refreshed on?

6 A. Yes, ma'am.

7 Q. Does the CDP take any steps to conduct use of
8 force policy tests of its officers at a point in time
9 other than immediately after they've been refreshed on
10 the topic to test their retained knowledge on the
11 boundaries, and rules, and laws, regarding use of force?

12 A. I would have to say that in the firearms, and
13 that deals with deadly force, obviously the firearms
14 policy, in that one there isn't a PowerPoint right prior
15 to, a PowerPoint regarding that use of firearms policy
16 in that. There's not a presentation for that one, but
17 there is for the one over defensive tactics.

18 Q. And the one at defensive tactics is on the use
19 of force policy?

20 A. Yes, ma'am.

21 Q. Okay. Now, I want to ask some questions about
22 the specific officers involved in these shootings in
23 relation to these tests. So, for Baase, do you know
24 whether he passed all of those use of force tests from
25 the point of his hire as an officer to present?

1 A. I do not, ma'am.

2 Q. Okay. For Narewski, do you know whether or not
3 whether he passed all of those use of force tests from
4 the point of hire to present?

5 A. I do not, ma'am.

6 Q. For Mason, do you know there whether he passed
7 all the tests from his point of hire on use of force to
8 present?

9 A. I do not.

10 Q. And for Abel, do you know whether he passed all
11 the tests on use of force from the point of his hire to
12 present?

13 A. I do not, ma'am.

14 Q. Did you take any steps to ascertain whether or
15 not these officers passed their use of force tests over
16 the course of their training in the CDP before you came
17 in to testify today?

18 A. I did not, ma'am.

19 Q. If officers fail a use of force test do they get
20 a chance to retake it?

21 A. Yes, ma'am. Right after it. You have to pass.
22 But I've not physically seen their test scores, so I'm
23 not going to answer that they have passed. But, if you
24 fail it, you have to take it right after until you pass.

25 Q. What steps, if any, are taken with an officer

1 **when they fail that test before they retake the test?**

2 A. They're provided with the question that they
3 missed, remediated on the policy, and then, you take it
4 again.

5 **Q. Are they told what the right answer would have
6 been?**

7 A. If they're given the policy, then yes, they
8 would.

9 **Q. If an officer fails that test and then retakes
10 it during that annual inservice, is there any record
11 that they failed the test and retook it?**

12 A. I don't know if they keep the old -- I can't
13 imagine them destroying the training records, but I
14 can't say for certain that they -- I can't imagine that
15 they would get rid of a failed test, the training
16 record.

17 **Q. Do you know whether it's documented anywhere
18 that any specific officer has failed that test and had
19 to retake it?**

20 A. I don't know the answer to that.

21 **Q. In your experience as the person providing that
22 training, did you ever observe, witness, experience,
23 take part in any documentation that an officer failed a
24 use of force policy test and had to retake it?**

25 A. At the recruit training level, we have record of

1 everything, even the actual test.

2 Q. What about at the officer level when you did
3 those trainings?

4 A. At the officer level it was the written bubble
5 tests. So I would imagine they still have that in that
6 officer's training file.

7 Q. I'm asking if you remember whether or not
8 there's like a list kept, or somewhere that's written
9 down in someone's file that they failed this test and
10 has to retake it?

11 A. Ma'am, I'm not privy to that information other
12 than the fact that I know that if you do fail the test
13 that you have to retake it and you retake it right then.

14 Q. When you were a defensive tactics trainer and
15 you put on that inservice training, did you oversee that
16 test being given?

17 A. Are we talking about the actual physical test?
18 No, I did not.

19 Q. Was that part of the annual inservice training?

20 A. Yes, ma'am.

21 Q. Explain to me, then, how that works, that you
22 weren't involved in the administration of that test when
23 you put on the training.

24 A. Primarily it's a defensive tactics sergeant that
25 does the PowerPoint and goes over that policy, and

1 they're the one that administers the test as well.

2 Q. Okay. And as you sit here you don't know
3 whether or not it is specifically documented that a
4 person fails a test other than your speculation that the
5 original failed test document is retained in a file?

6 A. Yes, ma'am.

7 Q. Okay. We talked about that test being the same
8 from year-to-year unless there's a policy update, right?

9 A. Yes, ma'am.

10 Q. Do you know whether there's any analysis done by
11 the CDP to see if individual officers repeatedly fail
12 specific questions, for instance, when they're the same
13 from year to year?

14 A. I do not know of anyone. I'm on the EARS
15 Committee, and I know that on the EARS Committee we're
16 not given any test scores per se of when someone has
17 failed a use of force policy or firearm policy exam.
18 I've never received an actual test before.

19 Q. So EARS doesn't look at use of force tests as
20 part of its analysis, then?

21 A. No, ma'am.

22 Q. And then, what happened in just the inservice
23 training process, is there any analysis done to see
24 whether or not officers repeatedly fail the same
25 question year-to-year?

1 A. Not that I know of.

2 Q. Is there any analysis done to see if officers
3 repeatedly fail questions on a specific topic from
4 year-to-year?

5 A. No, ma'am.

6 Q. Okay. You mentioned the defensive tactics unit.
7 What is that?

8 A. The defensive tactics unit is a unit within the
9 division that trains officers on use of force. They
10 also train recruits in use of force, and then they also
11 teach community engagement as well, like response to
12 active shooter. And they also give remedial training if
13 an officer is found to be deficient in an area. They're
14 sent back to the defensive tactics unit to basically
15 remedy whatever the officer was doing incorrectly.

16 Q. Okay. Now, let me ask you a question about the
17 deadly force training provided in the annual inservices.
18 How are officers taught to use the tactics of cover and
19 concealment rather than immediately resorting to deadly
20 force?

21 A. We are trained to always be looking to see where
22 cover is. And, obviously, it depends on the totality of
23 the circumstances, the immediate threat, where that
24 cover is, depending on if you're going to use deadly
25 force.

1 Q. Okay. And explain to me what officers are
2 supposed to do pursuant to CDP training with regard to
3 the use of cover and concealment in potential deadly
4 force scenarios.

5 A. So, as I'm sure you're aware of, that cover will
6 stop a bullet, and concealment doesn't stop a bullet.
7 So if you're in an immediate threat of a firearm, for
8 instance, you would want cover. When if you're put in a
9 situation where you're going to deploy Taser, you don't
10 necessarily need cover, but more of a barrier in-between
11 you. It depends on what tool that that officer is using
12 on their toolbelt to determine if it's going to be cover
13 or concealment. It depends on the totality of the
14 circumstances of that incident.

15 Q. Are officers in the CDP taught to use cover and
16 concealment wherever possible rather than deadly force?

17 A. Could you repeat that again?

18 Q. Are CDP officers taught to use cover and
19 concealment wherever possible rather than resorting to
20 deadly force?

21 A. It depends on the totality of the circumstances.
22 It depends on what type of weapon that person has. I
23 guess, the distance of where your cover is because,
24 obviously, in use of force incidents they're very fast,
25 rapidly evolving. A gun can fire within, you know,

1 split seconds, and that reaction time of getting to
2 cover that officer could take rounds, so it depends upon
3 that situation. So, as far as are they taught to always
4 get behind cover before using deadly force, it would
5 depend on the totality of the circumstances.

6 Q. **Okay. All of the things being equal, is there a**
7 **preference in the Columbus Division of police between**
8 **the use of deadly force and use of cover and concealment**
9 **if it's possible to use it under the policies,**
10 **practices, customs of the department?**

11 A. It depends on the totally of the circumstances.
12 And the division is not going to expect their officers,
13 for instance, if there's a deadly threat within six feet
14 in front of them to go to cover before using deadly
15 force. If they do use deadly force, obviously, that
16 action has to be reasonable.

17 Q. **During the Columbus Division of Police policies,**
18 **practices, and customs, if an officer has the option to**
19 **use concealment and cover, rather than deadly force, is**
20 **the preference under those policies that they use**
21 **conceal and cover, or is there no preference, or is**
22 **there a preference for deadly force?**

23 A. It depends on the totality of the circumstances.
24 You change one little fact pattern, and it's going to
25 change, obviously, the analysis of that use of force

1 incident.

2 Q. Right. So, what I'm asking you is in an event
3 that it's possible to use concealment and cover under
4 whatever the totality of the circumstance may be, is
5 there a preference to use conceal and cover, is there no
6 preference, or is there a preference for deadly force?

7 A. The division would always consider the totality
8 of the circumstances.

9 Q. I know, but I'm saying that in --

10 A. I'm sorry. It's just like you change one little
11 thing and that could change a yes or no. I mean, do we
12 train the use of cover for officer safety? Absolutely.
13 Do we train use of cover to give that officer more time
14 to give verbal commands to have someone drop a knife or
15 weapon? Absolutely. But it depends upon the totality
16 of the circumstances in that moment on whether or not
17 that officer uses deadly force.

18 Q. Okay. I'd like to talk about the individual
19 officers involved in these shootings and their specific
20 training provided by the Columbus Division of Police
21 concerning deadly force. So can you please -- well,
22 before I ask the question, you said that you reviewed
23 the training records of Abel, Baase, Narewski and Mason,
24 before we started this morning, correct?

25 A. Yes. I literally scrolled down through their

1 rollcall training.

2 Q. Okay. Can you please state for me all of the
3 trainings for Keith Abel that the CDP provided
4 pertaining to use of deadly force and the dates of those
5 trainings?

6 A. Is it okay if I look it up on my computer?

7 Q. It is, but I could also show you an Exhibit.
8 I'm showing the training records provided to us by the
9 Columbus Division of Police for Keith Abel, and I'm
10 going to mark this as Exhibit 2.

11 - - - -

12 (Thereupon, Plaintiff's Exhibit 2 was marked for
13 identification.)

14 - - - -

15 BY MS. GREENE:

16 Q. I will flip through this to show you that we
17 have two things combined here. We have a Train Track
18 list of trainings, and then we also have his employee
19 training record that makes up the rest of the document.
20 So, starting in Train Track, which trainings here
21 pertain to deadly force?

22 A. So, in Taser proficiency, any time there's
23 Taser, all of that deadly force is mentioned in that
24 Taser policy.

25 Q. So, we see here five trainings at the top of

1 **this required training status list called DTU Skills**
2 **Development Taser in either recertification or**
3 **proficiency, and the year that that training was**
4 **provided. Is that what you're referencing right now?**

5 A. Yes, ma'am.

6 Q. **So, is each of those trainings related to deadly**
7 **force?**

8 A. Each of those trainings talk about deadly force
9 in them when you're talking about Taser. Absolutely.

10 Q. Okay. And it looks like the years that we have
11 here, 2007, 2008, 2009 and 2010, right?

12 A. Yes, ma'am.

13 Q. Okay. What else on this page pertains to deadly
14 force?

15 A. So, the EBO and legal update, that next one.
16 Emergency vehicle operations. So in that I know any
17 time that you talk about emergency vehicle operations it
18 is mentioned that a cruiser can be used in deadly force,
19 not just a firearms, for instance. So, definitely
20 deadly force would have been mentioned there. Without
21 looking at the -- I would have to know about the next
22 one, the inservice 2009 ethics, legal, searches, and the
23 terrorism, that one there, I don't know if deadly force
24 was went over in the legal part of that or not.

25 Q. Okay. Let me just ask you a different question.

1 When we look at any of these training records for any of
2 these service officers, if we see something called DTU
3 with a year, skills, development, and Taser, either
4 proficiency or recertification, we'll know that that
5 training pertained to deadly force, right?

6 A. Not exclusively, but it's definitely mentioned
7 and talked about in training that if someone has deadly
8 force against you that a Taser is not going to be that
9 appropriate use of force response.

10 Q. And those pertain to more than Taser use also,
11 correct?

12 A. Yes, ma'am.

13 Q. And so, if we see any title in these officer
14 training documents that has the word deadly force, it's
15 safe to assume that that training pertains to deadly
16 force, right?

17 A. Yes, ma'am.

18 Q. If we see something called trigger management,
19 what's that about?

20 A. Where is that listed, ma'am?

21 Q. It's down here at the second to last item in the
22 list.

23 A. I do not recall without seeing the rollcall.

24 Q. Okay. Let me ask you a quick question about the
25 format of these records. Here on this first page we see

1 a column called, "Require Training Status." Do you see
2 that?

3 A. Yes, ma'am.

4 Q. What does that mean?

5 A. Required training status, I would assume that
6 those were required training that you have to do.
7 However, I know that the trainings completed are
8 required as well, so I don't know what that specifically
9 means for that training track.

10 Q. Okay. In this document we have a date at the
11 bottom left-hand corner here 4/3/2017. I'm assuming
12 that's the date that this particular record was printed
13 or generated, is that right?

14 A. I don't know, ma'am. I'm not familiar --
15 obviously I know this is what they use to record our
16 training, but I can't answer specific questions about
17 the form.

18 Q. Okay. Well, let me ask you this: In this Train
19 Track document, if we see a training listed here on this
20 document, that means that the officer took it, right?

21 A. Yes, ma'am.

22 Q. And if it's not listed here -- strike that.
23 Every training that an officer would have taken would be
24 listed either in the Train Track or in the employee
25 training report, right?

1 A. I would assume so, ma'am. I'm not familiar with
2 how training is put into the system here.

3 Q. **Do you know of any other place that training for**
4 **officers is recorded and maintained in terms of the**
5 **lists of trainings that officers have taken?**

6 A. Well, I noticed as I was looking through this,
7 like it doesn't list that I saw -- it just says
8 "academy." So, I mean, you think of all the courses and
9 trainings that a recruit gets while they're in the
10 academy, and there wasn't like, the specific hours. For
11 instance, how many hours did they spend in crisis
12 intervention training? You can't tell from looking at
13 this record how many hours were spent in that training.
14 So, I would have to say that they're not all listed
15 here.

16 Q. Okay. So, academy training is not listed in the
17 employee training report or Train Track, right?

18 A. Not that I saw.

19 Q. But, training at the officer level is listed
20 here, correct?

21 A. Yes, ma'am.

22 Q. And every training taken at the officer level
23 should be contained in the either train track or the
24 employee training report lists, right?

25 A. Well, at rollcall with a supervisor, if a

1 supervisor goes over a policy change, or, you know,
2 let's say, an e-mail came out with how to title a
3 report, that's not going to be listed in this training
4 report.

5 Q. Well, I do see on the page that we're looking at
6 now, which is Bate stamped 170707, page three of this
7 **Exhibit 2** that we're looking at, I see several entires
8 here that are called electronic rollcall. So, it looks
9 like rollcall is tracked in this report, isn't it?

10 A. That's electronic rollcall. That's not the
11 training with an actual supervisor at the rollcall
12 table. That electronic rollcall is an officer will log
13 into that software, so that would be that Power DMS, and
14 look at the rollcall, and that's an electronic rollcall,
15 but any training that's given at the actual rollcall
16 table is not listed here.

17 Q. But, what we do see listed here is electronic
18 rollcall and classroom training, for example, on this
19 page the 2011 DTU skills and Taser proficiency training,
20 right?

21 A. Yes, ma'am.

22 Q. And so, all classroom training and electronic
23 rollcall are included in the Train Track and employee
24 training report lists, right?

25 A. Yes, ma'am.

1 Q. And the only thing that isn't necessarily
2 reflected here is rollcall in-person training with a
3 supervisor?

4 A. Without knowing -- I mean, I don't know if when
5 officers will go to additional trainings at OPOTA, for
6 instance, or Caliber Press, different trainings, and I
7 don't know if those are listed in their training record
8 or not.

9 Q. Did anyone prepare you to testify on training
10 records for the individual officers involved in these
11 shootings before you came in here to testify with us?

12 A. No, ma'am.

13 Q. Did you undertake any activity yourself to
14 prepare yourself to testify about the training records
15 for these individual officers?

16 A. No, ma'am. Other than I know -- I mean, I guess
17 as far as I thought I was going to be testifying today
18 in regards to training for the division of police, not
19 for, specifically for these officers.

20 Q. Nobody told you that you were talking about
21 training for these specific officers for use of deadly
22 force?

23 A. I have not looked at any of the shootings, them
24 using deadly force. I've not looked at any specific
25 cases.

1 Q. That's not what I'm asking. I'm asking, did
2 anyone tell you that you were going to be testifying
3 about training concerning the use of deadly force for
4 these specific officers, meaning Baase, Narewski, Mason
5 and Abel?

6 A. Yes, ma'am.

7 Q. Did you prepare to testify about their
8 individual training before you came in here today?

9 A. Yes, ma'am.

10 Q. But, as we sit here, you don't seem familiar at
11 all with their training records?

12 A. Ma'am, I do the training. I don't do any of the
13 entering into this system. I don't do any of that.

14 Q. Did you review the Notices of Deposition in any
15 of the three cases you're here to testify about before
16 you came in today?

17 A. I'm sorry. Can you repeat the question?

18 Q. Did you review the Notices of Deposition that
19 were issued in each of these three cases before you came
20 in to testify today about the topics that you were here
21 to testify on?

22 A. Yes, ma'am.

23 Q. Okay. So, you know that you're here to talk
24 about the training of these individual officers relating
25 to deadly force, right?

1 A. Yes, ma'am.

2 Q. All right. I'm going to close this Exhibit and
3 we're going to look at another Exhibit. I'm going to
4 show you what's been previously marked as Narewski

5 **Exhibit 4.**

6 - - - -
7 (Thereupon, Previously Marked Narewski Exhibit 4 was
8 shown.)

9 - - - -
10 BY MS. GREEN:

11 Q. **Have you seen this before?**

12 A. Yes, ma'am. I reviewed it this morning.

13 Q. And so, as with Abel, what we'll see in these
14 lists of documents contained in the Train Track, and
15 here we also have a certificates report and awarded
16 list, and an employee training report. As with Abel,
17 these lists will contain the classroom training and
18 electronic rollcall that he attended while as an
19 officer, right?

20 A. Yes, ma'am.

21 Q. Okay. And this is a complete record of those
22 trainings, right?

23 A. Like I said earlier, I don't know if any
24 additional training, if that officer went outside, which
25 sometimes they'll do to enhance. Like, let's say,

1 they're a freeway officer and they take the class at
2 OPOTA on how to detect drugs in semis, or how they
3 conceal them, I don't know if that's listed in this
4 training record or not.

5 Q. Okay. So there may not be outside agency
6 training, but anything provided by the Division of
7 Police is going to be listed here?

8 A. Yes, ma'am.

9 Q. As with Abel. And this is Narewski Exhibit 4.
10 We'll move on from this document. I'm now going to show
11 you a training document for Officer Mason. Do you see
12 the document here?

13 A. Yes, ma'am.

14 Q. Okay. We're going to call this one Shaw Exhibit
15 3.

16 - - - -
17 (Thereupon, Plaintiff's Exhibit 3 was marked for
18 identification.)

20 BY MS. GREENE:

21 Q. Here we have a Train Track listing of trainings
22 along with an employee training report?

23 A. Yes, ma'am.

24 Q. And just like with Narewski and Abel, any CDP
25 provided classroom training or electronic rollcall

1 training is reflected in this list if indeed Officer
2 Mason took it, right?

3 A. Yes, ma'am.

4 Q. Okay. I'm going to close that. I'm now going
5 to show you one more document, which is Officer Baase's
6 training record, and this was previously marked as Baase
7 Exhibit 9.

Exhibit 9.

8 - - - -

(Thereupon, Previously Marked Base Exhibit 9 was shown.)

-2 | BY MS. GREEN:

Q. Here we have a Train Track record, certificate reports award, and an employee training report, correct?

-5 A. Yes, ma'am.

-6 Q. And like the other three officers that we just
-7 discussed, this document will include all classroom
-8 training and electronic rollcall training provided to
-9 Baase by the CDP. correct?

20 A. Yes, ma'am.

Q. Okay. So, for any of these trainings that these officers took pertaining to use of deadly force, do you know whether the city has produced all training materials used for those trainings to the Plaintiff's in these cases?

1 A. No, ma'am. I do not.

2 Q. And did you undertake any search to obtain and
3 produce training materials for use of deadly force
4 related trainings for these officers prior to your
5 deposition today?

6 A. I believe I might have helped out with some
7 training records needed for one of the cases, which
8 would be the Tyree King one, I believe.

9 Q. What did you do for that?

10 A. I believe that I forwarded maybe some types of
11 policies. I'd have to look back. It was quite sometime
12 ago, but I believe that I helped get that to our
13 secretary because she was getting some of those records
14 together, along with Sergeant Cheatham as well.

15 Q. Okay. I'd like to momentarily go back here. I
16 have, I believe, the use of force policy from June 30th,
17 2015, which we discussed as the single policy change
18 that occurred between the shooting of James England and
19 Deaunte Bell-McGrew. I'm going to show that document to
20 you just so we can identify it.

21 Here we have use of force policy 2.01. Is this
22 -- no. This says revised in 2014, so strike that. I'll
23 come back to this later.

24 What I'd like to go through with you now are
25 some materials from the defensive tactics unit

1 proficiency skills and Taser training that was provided
2 to us by the city in relation to these cases. So, what
3 I have in front of the us right now is the defensive
4 tactics unit 2007 proficiency skills and Taser phase
5 training, correct?

6 A. Yes, ma'am.

7 Q. Is this the PowerPoint that would be shown at
8 the annual inservice that we discussed earlier?

9 A. I would assume -- so the proficiency skills and
10 Taser phase.

11 Q. Would you like me to click through it so you can
12 see?

13 A. Yes, ma'am. Thank you.

14 Q. It's 101 pages long, so tell me when you get to
15 the point that you have a sense of what it is.

16 A. Sure. Sure. Yes, ma'am, that would be it.

17 Q. I'm going to go back to page one for just a
18 moment, but this is the PowerPoint that was shown in
19 2008 at the annual inservice for officers on use of
20 force, right?

21 A. Yes, ma'am.

22 Q. Okay. So, I'm going to skip forward to page 34
23 of this document. And I just want you to explain to me
24 here -- I believe what we have on this page is the use
25 of force continuum that we referenced earlier, right?

1 A. Yes, ma'am.

2 Q. And I see level six, and deadly force and baton
3 techniques highlighted here. Can you explain to me what
4 this page references here?

5 A. So, a level six is police K9 bite. And then,
6 you have the use of force continuum. So, what this
7 slide is representing is you can see basically like K9
8 bite isn't listed on the actual continuum, but that's
9 letting you know that that's going to be a less lethal
10 amount of force, in the time that a police K9 bite,
11 obviously, depending on the subject factors. But if you
12 go over, there's two columns on that use of force
13 continuum, if you go over on the left-hand side and see
14 the striking and kicking officer, that's when those
15 techniques would be reasonable considering there's the
16 officer subject factors, there weren't any officer
17 subject factors.

18 Q. Okay. And then, level seven involves bean bags,
19 knee knockers, and sting balls I see, is that right?

20 A. Yes, ma'am. Those are typically used during
21 riot control.

22 Q. And then, as we move forward here, we have level
23 eight, which is deadly force, and that's the greatest
24 amount of force that an officer could possibly use,
25 correct?

1 A. Yes, ma'am.

2 Q. **And what are CDP officers taught about when they**
3 **can use deadly force?**

4 A. So, deadly force can only be used to protect
5 life.

6 Q. **What do you mean by that?**

7 A. It can't be used solely for a seizure.

8 Q. **Are there any other elements that officers are**
9 **supposed to use in determining when they can use deadly**
10 **force pursuant to CDP training policies and practice?**

11 A. Yes, ma'am. They're allowed to use it in two
12 different contexts. One being to protect themselves or
13 others from immediate threats of serious bodily injury,
14 and/or to prevent the escape of a fleeing dangerous
15 person. So, let's say out of a burglary, and they
16 weren't known to have a weapon, an officer wouldn't be
17 permitted to use deadly force merely for that seizure.
18 They would need to be dangerous, that immediate threat
19 to the officer or others.

20 Q. **And what does it mean to be a fleeing dangerous**
21 **suspect? How does the CDP define that?**

22 A. So, prior to 1985 officers were allowed to, at
23 the time in some states, allowed to do a seizure solely
24 for the purpose of seizing someone because they were a
25 fleeing felon. So, prior to that, that, obviously,

1 being dangerous, means that it's constitutionally
2 unreasonable to use deadly force solely for the purpose
3 of -- an officer has to be in that immediate threat.

4 Q. **You broke up for a second there. Can you go**
5 **back? I'm sorry.**

6 A. No problem at all. When it comes to a fleeing
7 dangerous person, as far as being able to use deadly
8 force in that incident, prior to 1985 officers were
9 allowed to use deadly force to seize someone who is
10 nothing other than a fleeing felon. For instance, using
11 bad checks, that's a felony. Using a stolen credit
12 card, that's a felony. So, that's been found
13 constitutionally unreasonable by the United States
14 Supreme Court, and that's what our officers are taught.
15 There has to be that immediate threat of serious bodily
16 injury or death. There has to be that immediate threat
17 in order to use deadly force on a subject.

18 Q. **For a person who is fleeing, you mentioned that**
19 **officers can use deadly force to prevent the escape of**
20 **fleeing dangerous suspects. Who is a fleeing dangerous**
21 **suspect? What do you have to have present to have the**
22 **right to shoot a person who is fleeing?**

23 A. Obviously, it depends on the totality of the
24 circumstances. However, let's say that someone, for
25 instance, an officer sees a subject murder someone, like

1 shoot someone with a gun, and then they take off. The
2 subject takes off running. An officer would be allowed
3 to shoot that person because of that immediate threat.
4 They've just shot someone else, and so, the chances of
5 that subject, if they're obviously not contained or
6 running somewhere, they would be a threat to anyone
7 coming around, or a house, somewhere along those lines.
8 And also that subject that just murdered someone would
9 definitely have the means to shoot an officer chasing
10 them as well.

11 Q. So, under CDP policies and practices in the
12 training that's provided, officers are permitted to
13 shoot someone after they see that person shoot another
14 person and flee regardless of any other circumstances?
15 If those things happen, they're allowed to shoot?

16 A. No, ma'am. It has to be immediate. It has to
17 be something that that shooting just immediately
18 happened, and you have to have that immediate threat of
19 serious physical harm in order to use lethal force on a
20 subject.

21 Q. So, what has to be in place to maintain the
22 immediacy of that threat after an officer witnesses that
23 person shoot someone else and flee?

24 A. Can I give you an example? Like, if you have
25 that immediate or imminent, it doesn't mean that it has

1 to be happening right now, or have to have happened,
2 it's going to happen. It's imminent. So, let's say
3 that you have an active shooter in a school and you have
4 a child under a desk in a classroom, that child is in
5 immediate threat of harm, of serious physical harm, even
6 though that shooter isn't actually pointing a gun at
7 that student under that desk, but it's imminent. It's
8 going to happen. That person is in threat of immediate
9 serious physical harm.

10 Q. **What about a circumstance where a person commits
11 an armed robbery and then flees a scene, and then points
12 a gun during the process of that armed robbery. During
13 the fleeing process, is a CDP officer permitted to shoot
14 that person?**

15 A. They would have to have probable cause to
16 believe that that person was dangerous. The fact that
17 they were armed.

18 Q. **So, if a person is armed and commits an armed
19 robbery and then flees, that, under the CDP policies,
20 practices, training, is sufficient to allow an officer
21 to perceive an imminent threat great enough to justify
22 deadly force?**

23 A. That officer would then have to observe some
24 type of movement toward their waistband, for instance.
25 You would need to have some type of -- someone could be

1 running and match the description of a robbery suspect
2 and not be the robbery suspect. So, an officer is going
3 to need more than that in that circumstance.

4 Q. **Having your hands near your waistband would**
5 **constitute enough to elevate that risk level to imminent**
6 **threat of serious bodily harm?**

7 A. It would depend on the totality of the
8 circumstances.

9 Q. **Okay.**

10 A. I don't believe that someone just having their
11 hands on their waistband is going to be enough. You're
12 going to have to have the officer give this person the
13 commands to stop. Show them their hands. Do they match
14 the description of the subject. It depends on the
15 totality of the circumstances.

16 Q. **And just for the record, we were looking at page**
17 **Columbus 019447 in this Exhibit 4, if I haven't marked**
18 **it already, in the 2008 training PowerPoint.**

19 - - -
20 (Thereupon, Plaintiff's **Exhibit 4** was marked for
21 identification.)

22 - - -
23 BY MS. GREENE:

24 Q. **I just have one other question about this**
25 **document. We're now on page Columbus 019450. I see**

1 **there that this slide says "defensive tactics are most**
2 **effective when applied with speed, surprise, distraction**
3 **and/or exhaustion." Do you see that there?**

4 A. Yes, ma'am.

5 Q. **What does that mean?**

6 A. So, defensive tactics are most effective when
7 applied with speed. So, like, let's say that you're
8 applying handcuffs, and you're fumbling around with your
9 handcuffs and not getting that speed of application,
10 it's not going to be the most effective. Surprise,
11 we're using that speed of application. Surprise,
12 meaning, get ahold of them quickly. And that
13 distraction and/or exhaustion -- I don't know what
14 they're meaning by distraction and/or exhaustion. I
15 don't know what that particular slides means.

16 Q. **In 2008 you were still teaching officers**
17 **defensive tactics, right?**

18 A. Yes, ma'am.

19 Q. **Would you have used this PowerPoint in that**
20 **training?**

21 A. Our defensive tactics sergeant would have given
22 the PowerPoint presentation. Not specifically me.

23 Q. **Would you have been present for the**
24 **presentation?**

25 A. Yes, ma'am.

1 Q. And you, in 2008, took your inservice training,
2 right?

3 A. Yes, ma'am.

4 Q. So, as we sit here today, you just don't recall
5 what this slide was about that we're looking at right
6 now?

7 A. Not with certainty.

8 Q. Okay. Do you know who taught this course in
9 2008?

10 A. It would have to have been either Sergeant Chris
11 Cheatham, or it would had to have been Matthew Weekly.
12 One of those two would have taught that.

13 Q. Okay. And this training was consistent with the
14 CDP policies, right?

15 A. Yes, ma'am. They wouldn't have taught anything
16 that was against policy.

17 Q. Do you know whether there were any handouts
18 provided to officers during this training?

19 A. I don't recall, ma'am.

20 Q. And did Narewski, Baase, Mason, and Abel, take
21 this training?

22 A. Yes, ma'am.

23 Q. Okay. Okay. I'm going to stop sharing this one
24 and look at another document. This, what we see here is
25 the defensive tactics training slideshow from the 2009

1 inservice, is that right?

2 A. Yes, ma'am.

Q. And I'm going to mark this as Exhibit 5.

4 | Page

(Thereupon, Plaintiff's Exhibit 5 was marked for identification.)

7 | Page

BY MS. GREENE:

10 A. Ma'am, so it says "2010," on one side of the
11 slide, and 2009 on the -- is that just --

12 Q. I don't know. You tell me. I have a separate
13 one from 2010 that I'm going to show you next. It was
14 provided to us by the city, so tell me if it's not.

15 A. Okay.

16 Q. I have a question for you about the second page
17 of Exhibit 5, which is Bate stamped Columbus 019512. We
18 see on this the statement at the bottom here, "Ties are
19 bad in a gunfight." Do you see that?

20 A. Yes, ma'am.

21 Q. Can you explain that to me?

22 A. Yes, ma'am. I know earlier we mentioned a
23 couple of scenarios that we do early with the recruits.
24 And one of them is kind of the example that you've given
25 with a bank robbery scenario, and we put the recruit

1 right in front of them. We tell them you were
2 dispatched on a robbery in progress. We put the suspect
3 at the door, we put a gun in their hands and tell them,
4 that's the bank robber and we want them to react how a
5 normal officer would act. And then, the scenario
6 begins, and a lot of the recruits during that scenario,
7 they would point the gun at the suspect and start giving
8 them verbal commands, and they have no cover. They'll
9 wait until after the suspect tries to start to pull
10 their arm up with that firearm to point it at them
11 before they will begin to fire. And, obviously, it
12 doesn't happen instantaneous, and the best they could
13 hope for in that situation is a tie, because they
14 believe, many of them believe, because of video culture,
15 they believe they're going to be able to, with their
16 guns pointed, pull their trigger quicker than a suspect
17 with a gun at their waistband is going to be able to
18 pull it and fire.

19 That's where that ties are bad in a gunfight
20 because of action versus reaction principles that their
21 shot is always going to come after, or near the same
22 time. So, that's where the whole ties are bad in a
23 gunfight, because, obviously, all it takes is getting
24 shot once to kill someone. So, that is where ties are
25 bad in a gunfight. That's where that comes from is that

1 particular scenario. Obviously, it relates to action
2 versus reaction.

3 **Q. Okay. So, recruit training, then, you're saying**
4 **that officers or trainees are taught that they shouldn't**
5 **wait for a suspect to begin to pull a gun out of their**
6 **waistband to shoot because it could result in a tie as**
7 **you described?**

8 A. Absolutely, ma'am. We train them to react to
9 the threat, not the action. If you wait for the actual
10 action of lifting that firearm, for instance, in this
11 scenario, it's going to be too late.

12 **Q. So, like the suspect having the hand on the gun**
13 **is enough under that?**

14 A. Yes, ma'am.

15 **Q. The suspect reaching toward an area where a gun**
16 **is located, is that enough for that principle?**

17 A. It depends on the totality of the circumstances.
18 Also, I want you to know, in that scenario we don't give
19 them any cover at all, so they have to make that
20 decision right now. And, of course, we teach them that
21 if there is cover there, that can possibly, depending on
22 the totality of the circumstances, give you more time to
23 give verbal commands for that suspect to drop the
24 firearm. But, of course, also in that particular
25 scenario it could also give time for that suspect to

1 enter the bank where there's innocent people inside.

2 That's where that comes from.

3 Q. **What we're looking at now is a training for**
4 **officers, not recruits, right?**

5 A. That's correct.

6 Q. **This same principle that you just described for**
7 **recruits is what is taught to officers in this training**
8 **that we're looking at, right?**

9 A. Yes, ma'am.

10 Q. Okay. I'm just going to skip ahead in the
11 document, and we're now at Columbus 019542. These are
12 the same as the pages that we just saw in the 2008
13 training, correct?

14 A. Yes, ma'am.

15 Q. And now, I'm going to show you what I believe is
16 the 2010 presentation. Now, again, you tell me if I got
17 that right. Okay. Here we are. Is this the 2010
18 defensive tactics training slideshow that was used in
19 the 2010 inservice training for CDP officers?

20 A. Yes, ma'am.

21 Q. Okay. I'm just going to skip ahead here in this
22 document and, again, just like the last one, I'm going
23 to flip through these pages, and tell me, these are the
24 same content that we saw in the '08 and '09 trainings,
25 right?

1 A. Yes, ma'am.

2 Q. We're going to mark this one Exhibit 6.

3 - - - -
4 (Thereupon, Plaintiff's Exhibit 6 was marked for
5 identification.)

6 - - - -
7 BY MS. GREENE:

8 Q. I'm going to open another document. And we have
9 the 2011 defensive tactics slideshow used for the annual
10 inservice training, correct?

11 A. Yes, ma'am.

12 Q. Okay. And I'm going to mark this as Exhibit 7.

13 - - - -
14 (Thereupon, Plaintiff's Exhibit 7 was marked for
15 identification.)

16 - - - -
17 BY MS. GREENE:

18 Q. Again, I'm going to flip forward through these
19 series of pages, and tell me, this content is the same
20 that we saw in the priority trainings, right?

21 A. Yes, ma'am.

22 Q. Okay. I'm going to open another one.

23 - - - -
24 (Thereupon, Plaintiff's Exhibit 8 was marked for
25 identification.)

1 - - - -

2 BY MS. GREENE:

3 Q. And here we have the 2012 defensive tactics
4 slideshow used at inservice training, right?

5 A. Yes, ma'am.

6 Q. And we're going to do the same thing. We'll
7 flip through to the use of force continuum discussion
8 section of the presentation, and tell me whether this is
9 the same content that we saw in the prior presentations?

10 A. Yes, ma'am.

11 Q. Okay. I'm going to open another one, and I'll
12 show this to you.

13 - - - -

14 (Thereupon, Plaintiff's Exhibit 9 was marked for
15 identification.)

16 - - - -

17 BY MS. GREENE:

18 Q. Here we have the 2013 defensive tactics
19 slideshow from the inservice training, right?

20 A. Yes, ma'am.

21 Q. Okay. Now, I have a couple of questions about
22 this one. We're here, we are on a page marked Columbus
23 020120. Here it looks like this is describing division
24 directive 3.91. It says, "Sworn personnel may use
25 intermediate weapons to protect themselves or another

1 person from harm, to effect the arrest or gain control
2 of a physically aggressive or resistant subject, to
3 prevent or hold the commission of an offense, and that
4 intermediate weapon are not a substitute for deadly
5 force," correct?

6 A. Yes, ma'am.

7 Q. What are intermediate weapons that a CDP
8 officers can use?

9 A. It could be a baton, or a flashlight.

10 Q. Anything else?

11 A. I mean, you could throw environmental weapons in
12 there as well, depending on the totality of a
13 circumstance. Let's say an officer is rolling around
14 with a subject in a living room. They can't get to
15 their baton or something along those lines. However,
16 there's a lamp and they hit that person. Does that make
17 sense? So, environmental weapons, depending on what
18 would be available, obviously, that could be used as
19 well.

20 Q. Okay. So, these circumstances described on this
21 slide are the times when officers are supposed to use
22 intermediate weapons pursuant to the policies, right?

23 A. Yes, ma'am.

24 Q. Okay. Now, I'm going to --

25 A. Ms. Greene, there was things about that slide

1 you showed me earlier from 2008, that distraction and/or
2 exhaustion, I didn't give the presentation, but now that
3 I'm thinking about it and going through it, I'm guessing
4 that this distraction meant if you were going to say
5 tackle someone to the ground, and let's say they're
6 wrestling around with you and you give them a strike to
7 the face before you tackle them to the ground, you don't
8 just want to tackle them to the ground, you want to
9 distract them somehow. And, then, the exhaustion,
10 certainly if a subject is exhausted and tired, that
11 would be the time to get the handcuffs on, rather than
12 allowing them to rest and gain strength. And then,
13 you're going to end up, chances are, having to escalate
14 that level of force. I didn't mean to go back like
15 that, but I was thinking about it, and that might have
16 been what they were talking about with distraction or
17 exhaustion.

18 Q. Okay. Thanks.

19 A. You're welcome.

20 Q. Here we are in this 2013 presentation, I'm just
21 going to flip through these again, and if you could just
22 confirm for me, these are the same materials that we saw
23 in the prior years presentations, correct?

24 A. Yes, ma'am.

25 Q. Okay. And now, I'll show you another one. What

1 we have here is the 2014 slideshow used for defensive
2 tactics training at the inservice, right?

3 A. Yes, ma'am.

4 Q. We'll mark this Exhibit 10.

6 (Thereupon, Plaintiff's Exhibit 10 was marked for
7 identification.)

9 | BY MS. GREENE:

10 Q. I have a question for you on this page marked
11 Columbus 020245. Here it says 2014 scenarios, "Foot
12 chase: When an officer loses sight of a suspect the
13 officer must transition from chase mode to search mode.
14 It is recommended to have the firearm at the ready in
15 search mode." Do you see that?

16 A. Yes, ma'am.

17 Q. Why is that?

18 A. Because when you lose sight of someone, it was a
19 foot chase before, but now it's a search. So, when
20 you're chasing someone, you have them in sight, you have
21 an idea of, obviously, what's in their hands. But when
22 you go into search mode, you could go around a corner
23 and someone could have a gun in their hand, for
24 instance, and you need to be prepared. Obviously, we
25 talked about action versus reaction. Action beats

1 reaction every time. We want our officers to be better
2 prepared to have that gun out while they're searching,
3 because they lost sight of that person's hands.

4 Q. **So this training then, for CDP officers requires**
5 **officers to draw their firearms if they're on a foot**
6 **chase, preemptively, just in case that suspect may be**
7 **armed and dangerous?**

8 A. Yes, ma'am. Plus they can't see their hands.

9 When you have someone in sight, you could see what their
10 movements are. But once you lose sight of them, you
11 don't know if they picked a weapon up along the way or
12 if they had one on their person and now it's in their
13 hand. That's why.

14 Q. **So, under this training then, officers need to**
15 **take this kind of preemptive protection activity just in**
16 **case, even though they haven't seen the suspect with a**
17 **weapon before, under this training, they're supposed to**
18 **draw their weapons if they're on a foot chase?**

19 A. Yes, ma'am. When you transition from a foot
20 chase to a search, so we're going to slow things down
21 here, and, obviously, have that deadly force at the
22 ready.

23 Q. **So, any time an officer is searching for**
24 **someone, even if they haven't seen that person in**
25 **possession of a weapon, they're supposed to have their**

1 **firearms at the ready?**

2 A. Yes, ma'am. Let's say that you get dispatched
3 to a building where a burglary alarm has gone off and
4 there's no evidence at all of a suspect being inside,
5 you're still going to have your gun out while you're
6 searching.

7 Q. **And firearm at the ready means to have your gun**
8 **out of your holster in your hand, raised and ready to be**
9 **used, right?**

10 A. Yes, ma'am.

11 Q. Okay. I'm going to go to the next page and just
12 take a look at this. At the bottom it says, "if you use
13 loud repetitive verbal commands when you saw the suspect
14 around the corner." Do you see that?

15 A. Yes, ma'am. I see that.

16 Q. **Why is that important?**

17 A. Officers do not want to use deadly force, and we
18 don't want them to take any life unless they have to, to
19 protect their life or the lives of others. So 99
20 percent of the time officers are able to use those
21 verbal skills before they use any force, let alone
22 deadly force. A lot of times officers are able to
23 deescalate using those loud verbal commands, "drop the
24 firearm. Let me see your hands." And are able to take
25 that person into custody without any force at all.

1 Compliance is our goal.

2 Q. Okay. Now, on page Columbus 202052, the top
3 bullet point on this page is "lethal action requires
4 lethal response." Do you see that there?

5 A. Yes, ma'am.

6 Q. What does that mean?

7 A. So, lethal action requires lethal response. So,
8 the thing about Tasers is that people look at them as
9 like a stun gun, or some type of action that's going to
10 immediately stop someone, and then the officers don't
11 have to use deadly force. However, in using a Taser
12 against someone that has a gun, for instance, we
13 definitely have to have -- deadly force has got to be
14 out there. Now, lethal force -- so, someone with a
15 knife versus someone with a gun, a Taser is never going
16 to be the answer there. You can Tase someone under full
17 power and they're still going to be able to reach into
18 their waistband and fire back. Also, the thing about
19 Tasers is you can miss with a Taser. With Tasers you
20 have to have two prongs that hit the subject in order
21 for that to work. If the Taser hits someone's belt, it
22 won't work. If it hits a big puffy jacket, it won't
23 work.

24 Q. So, basically, whenever an officer sees a person
25 with something that the officer determines is a

1 **potentially lethal weapon, they should draw their**
2 **firearm and not their Taser. That's what this principle**
3 **is about?**

4 A. Yes, ma'am. However, if someone has a knife,
5 you could have a Taser out, you could see that lethal
6 force backup, so one officer could have their Taser out,
7 but the other officer has to have their gun out, so it's
8 that lethal force backup.

9 And this goes for someone with a knife, in order
10 to make sure if that Taser doesn't work and that person
11 would charge the officer with the knife, that you have
12 lethal force. Remember, when you use a Taser you're
13 within 20 feet of that subject, which is very close, so
14 we definitely want to make sure that if you're going to
15 use a Taser against someone with a knife, which is
16 lethal force, you want to have that lethal force backup.

17 However, you would not want to use it with
18 someone that had a gun because of the fact that someone
19 can still shoot even though they're going through a full
20 action of being Tased. They could still be a lethal
21 threat to the officer or others.

22 Q. **Under CDP policies, training, practices, are**
23 **officers supposed to draw their weapons when they are**
24 **arresting compliant suspects who are being arrested**
25 **subject to a warrant?**

1 A. What's the warrant for?

2 Q. **Let's say a felonious assault.**

3 A. Yes, ma'am.

4 Q. **Why is that?**

5 A. So, felonious assault, obviously means --
6 remember in that four prong test of Graham v. Connor.

7 It depends on the severity of the crime. So, if someone
8 has a warrant for felonious assault that, obviously
9 means that someone that has attempted to or hurt
10 someone, shot someone with a gun, stabbed someone with a
11 knife, something along those lines. Because of the fact
12 that they have those officer subject factors, that
13 special knowledge that that person had tried to murder
14 someone in a sense --

15 Q. **Felonious assault is not attempted murder.**

16 We're talking about felonious assault.

17 A. Well, if you shoot someone, ma'am, and they
18 live, that's felonious assault.

19 Q. I understand. But let me just make this
20 question simple. A CDP officer pursuant to CDP
21 policies, training and practices, they're going to
22 arrest someone for whom there's a warrant for a
23 felonious assault offense, but it's some time after that
24 event allegedly occurred, is the officer, under CDP
25 policies, practices, and training, required to draw the

firearm during the arrest?

A. Yes. Best practices, yes.

Q. Okay. I'm going to flip forward in this presentation, and these slides look a little bit different, but I think they contain the information that we saw in the prior years of training. So please confirm for me. I'm going to flip through the pages here. Is that the same training that we saw in previous trainings?

A. Yes, ma'am.

Q. Okay. We're going to close this training and open another one. I'm going to share my screen with you again, and here we have the 2015 defensive tactics slideshow?

A. Yes, ma'am.

Q. We're going to mark this as Exhibit 11, and I'm going to jump forward to page five.

(Thereupon, Plaintiff's Exhibit 11 was marked for identification.)

BY MS. GREENE:

Q. What's the lone wolf ambush?

A. It's a trend, if you will, of officers being ambushed by one person on like a surprise attack.

1 Unfortunately we had, certainly in this year
2 specifically, that's what was going on in the country.
3 So officers sitting in their car doing reports and being
4 ambushed by someone. Obviously, we want to make sure
5 that officers, you know, maintain environment awareness
6 of their surroundings. The lone wolf was a trend that
7 we were seeing.

8 Q. Okay. I'm going to take you to another page in
9 this training. And for the record, we're at Columbus
10 020447, and at the top of the page it continues to talk
11 about the lone wolf ambush. It says, "When talking to
12 anyone, be sure you are in an interview stance." Do you
13 see that there?

14 A. Yes, ma'am.

15 Q. **What is that?**

16 A. An interview stance is a bladed stance with your
17 gun slid back, so obviously, if someone would try to
18 disarm an officer, the further away that your firearm is
19 from them, the better. You're going to be able to
20 retain your firearm. The interview stance is going to
21 be bladed with the gun side back, hands up in a
22 protective -- I guess not down at your thighs, if that
23 makes sense. So if you could imagine having a notepad
24 and paper interviewing someone. And then, obviously, an
25 interview stance is always going to take into account

1 the reactionary gap. So, that plays into the realities
2 of action versus reaction. The closer that you are to
3 someone, the quicker they're going to be able to, I
4 guess, harm the officer.

5 **Q.** All right. I'm sorry. Columbus 020448 is the
6 page I'm on now. It says, "handcuff all attackers, dead
7 or live, even if the suspect is wounded." Do you see
8 that?

9 **A.** Yes, ma'am.

10 **Q.** Why?

11 A. So, if an officer is involved in a shooting,
12 it's best practice to get that person handcuffed as
13 quickly and safely as possible, so that you can render
14 aid. So, the thing with someone that has -- if an
15 officer shot someone, that doesn't mean that they're no
16 longer a threat. And so, officers will have to do that
17 threat assessment in order to get those cuffs on, so we
18 need to make sure that they are secure. They can't get
19 to that weapon anymore. They don't have any weapons on
20 their person, and we could get the medics in there to
21 get them transported as quickly as possible.

22 **Q.** Are people supposed to remain handcuffed even
23 after they've been disarmed in that type of event?

24 A. Yes, ma'am.

25 **Q.** What about when unarmed people are shot by the

1 police, are they also, pursuant to this training and
2 policy by the CDP, that they're supposed to be
3 handcuffed?

4 A. So, you would need to search them to make sure
5 that they were, in fact, unarmed, and you wouldn't want
6 to search someone unless they were cuffed up.

7 Q. If a person is known to be unarmed at the moment
8 that the shooting occurs, are they supposed to be
9 handcuffed under CDP policies and practices and
10 training?

11 A. If the officer is involved in a shooting and
12 shoots someone, yes, ma'am. It doesn't necessarily have
13 to be the officer shooting, but they need to get those
14 cuffs on, obviously, when it's safe to do so, and that
15 suspect is no longer a threat.

16 Q. So, it's universally applicable pursuant to the
17 CDP policies, practices, and training, that if a police
18 officer shoots a person, regardless whether they seem to
19 be armed or not, that person who is shot should be
20 handcuffed after the shooting?

21 A. Yes, ma'am.

22 Q. What if the handcuffing will cause greater
23 injury to that person, is that still true that that
24 person should be handcuffed under the division policy,
25 practices, and trainings?

1 A. Yes, ma'am.

2 Q. Okay. I'm going to close **Exhibit 11** and show
3 you another one. We're close to being done. I'm going
4 to share this screen with you. So I have two versions
5 of a training from 2016. This is version one. I'm
6 going to mark this as **Exhibit 12**.

7 - - - -

8 (Thereupon, Plaintiff's **Exhibit 12** was marked for
9 identification.)

10 - - - -

11 BY MS. GREENE:

12 Q. Have you seen this before?

13 A. Yes, ma'am.

14 Q. Were there two different versions of the
15 training given in 2016?

16 A. I don't know the answer to that, ma'am.

17 Q. Okay. Let's take a quick look at a few things
18 on this page. On page Columbus 020609 it says, "basic
19 function of a police officer is to effect the arrest of
20 a violent subject." What does that mean?

21 A. One of the functions of a police officer is to
22 arrest violent people. That's a very basic function of
23 a police officer. One of the functions.

24 Q. Okay. I'm going to close this exhibit. I'm
25 going to show you what was marked as the 2016 version

1 | two training. Have you seen this one before?

2 A. Yes, ma'am. I believe so.

3 Q. Okay. And we'll mark this as Exhibit 13.

4 | Page

5 (Thereupon, Plaintiff's Exhibit 13 was marked for
6 identification.)

7 - - - -

8 BY MS. GREENE:

9 Q. I'm going to go to Columbus 020749 in this
10 document, and this is talking about vehicle extractions
11 and telling officers to use extreme caution when
12 attempting to extract a resistive subject and maintain
13 proper contact and cover principles, correct?

14 A. Yes, ma'am.

15 Q. Are CDP officers supposed to during vehicle
16 extraction maintain contact and cover?

17 A. So, vehicle extractions, you're absolutely
18 right, that means getting people out of vehicles. Now,
19 it depends upon the severity of the crime on how we're
20 going to extract them out of that vehicle. Obviously,
21 if that person is complying, it's just a simple escort
22 out of the vehicle and putting them in handcuffs.
23 However, I would like to say that if it's out of a
24 felony stop, for instance, when you're ordering -- like
25 let's say that you stop the car, that you know there's

1 someone inside that has some type of a felonious assault
2 warrant inside that car, if you know that they're in
3 there and traveling, we're going to get on the air, ask
4 for another car, then you're going to light up that
5 vehicle once that other car is there with you, and then
6 extract them out of the vehicle behind cover.

7 Q. Okay. So, that would be the appropriate
8 approach to a vehicle extraction that you just
9 described?

10 A. If you're doing a traffic stop with someone who
11 has a felonious assault warrant on site, yes, ma'am.

12 Q. Under CDP training and policies, are officers
13 supposed to get into cars to try to pull people out for
14 an extraction tactic?

15 A. I mean, obviously, if you're going to get
16 someone out of a vehicle that has a felonious assault
17 warrant, it's always -- I mean, it depends on the
18 totality of the circumstances. You're talking about a
19 traffic stop type of event, you wouldn't want to
20 approach the car at all, if at all possible. You would
21 do that behind cover.

22 Q. What about like there's a vehicle parked in a
23 parking lot, for example, and officers have decided to
24 approach that vehicle for a consensual encounter, and
25 eventually they determine they have reasonable suspicion

1 **for some type of activity, are they supposed to get into**
2 **the car to pull a person out to extract them?**

3 A. We want to avoid getting into the vehicles,
4 ma'am, unless that vehicle is stabilized, because you
5 could be dragged by that vehicle. So, even when we
6 teach vehicle extraction, if we're reaching into a car
7 to get someone out of there, we want to try to keep as
8 much of your body outside of the car just in case that
9 vehicle goes in motion. If the vehicle is stabilized it
10 changes the totality of the circumstances.

11 Q. Okay. I'm going to show you one last training
12 like the ones that we've been looking at. It's a little
13 out of order. This is the 2007 inservice defensive
14 tactics training PowerPoint slideshow, correct?

15 A. Yes, ma'am.

16 Q. Okay. In this training there's a section on
17 sheep and sheepdogs, and I'm on page DTU, TRN 000032.
18 Do you see this here?

19 A. Yes, ma'am.

20 Q. I'm going to go through these pages slowly.
21 Tell me when you're ready for me to go to the next one.
22 I want you to familiarize yourself with these pages, and
23 then, we'll talk about them. Okay?

24 A. Okay, ma'am.

25 Q. Are you ready for the next slide?

1 A. Yes, ma'am. Okay. Okay.

2 Q. Okay. I'm going to mark this as Exhibit 14.

3
4 (Thereupon, Plaintiff's Exhibit 14 was marked for
5 identification.)

6
7 BY MS. GREENE:

8 Q. For the record, we just looked at pages Bates 32
9 through 40. What is this sheep and sheepdog training
10 about?

11 A. So, the sheep, sheepdog and the wolves -- what
12 do I say? It's analogy, if you will, that the wolves
13 are people that prey upon the weak. And then, the sheep
14 are the citizens that the wolves prey upon, and the
15 sheepdogs are the police officers that protect the sheep
16 from the wolf.

17 Q. Okay. And this presentation was the training
18 that all CDP officers received in 2007 on defensive
19 tactics, right?

20 A. Yes, ma'am.

21 Q. Okay. And on this page, Bates 34, we see that
22 the sheep are liberal, exclamation point. They live in
23 denial and do not want to believe that evil exists.
24 What is this referring to? You just said that the sheep
25 are the citizens. What does that mean?

1 A. I'm guessing a very unprofessional slide put in
2 a defensive tactics presentation basically saying that
3 the sheep, meaning the citizens are -- I mean, I'm here
4 to give my opinion. To say that they're liberal minded,
5 live in denial. They don't want to believe that there's
6 people out there that can hurt them, and generally don't
7 like the police.

8 Q. **And on this next one, I see this bad guys in**
parenthesis. Is that referring to all suspects?

9 A. I would guess that's people that prey upon the
10 weak are known as the wolves.

11 Q. **Okay. You took this training in 2007, right?**

12 A. Yes, ma'am.

13 Q. **Do you remember this presentation?**

14 A. I don't. But, I do find it unprofessional in
15 nature.

16 Q. **Have you ever had any conversations with any of**
your fellow Columbus officers about this presentation?

17 A. No, ma'am. Not that I can recall. I'm sure I
18 sat through the presentation.

19 Q. **As one of the trainers in 2007, did you get any**
20 **feedback on this presentation at the time that it was**
21 **provided?**

22 A. No, ma'am.

23 Q. **Who gave this presentation in 2007?**

1 A. It would depend on who the defensive tactics
2 sergeant was in 2007. I believe it was Sergeant Matt
3 Weekly.

4 Q. All right. For each of the trainings that we've
5 looked at, Exhibits 4 through 14, Mason, Baase,
6 Narewski, and Abel, took all of those trainings,
7 correct?

8 A. Yes.

9 Q. And all of those trainings that were provided
10 were consistent with department policies, right?

11 A. Yes, ma'am.

12 Q. I'm going to close Exhibit 14, and I'm going to
13 show you another training.

14 - - - -

15 (Thereupon, Plaintiff's Exhibit 15 was marked for
16 identification.)

17 - - - -

18 BY MS. GREENE:

19 Q. I'm going to ask quickly with this one. Have
20 you ever seen this training before?

21 A. Yes, ma'am.

22 Q. To whom was this training provided?

23 A. Does it say what year, ma'am?

24 Q. No.

25 A. Okay. Can you forward to the next slide, ma'am?

1 And the next one. I can't say for certain, ma'am. It
2 looks familiar, but I can't say for certain on who it
3 would have been given to.

4 Q. You don't know who taught it, do you?

5 A. I'm not positive.

6 Q. I'm at Bates 19215. The bottom bullet point
7 here says, "You must be able to justify your actions in
8 relation to use of deadly force." Do you see that?

9 A. Yes, ma'am.

10 Q. What does that mean?

11 A. So, when using deadly force, obviously, an
12 officer's perception is unique to things. Maybe an
13 ordinary person's inference of movements of a subject in
14 certain ways, readjusting their hips, things like that,
15 those are preattack indicators that maybe a normal
16 person untrained in law enforcement would not see that
17 as a threat.

18 Q. I just want to know what it means, "you must be
19 able to justify your actions?"

20 A. Yes, ma'am. I'm trying to get to it. I
21 apologize. So, with that, in order to use deadly force
22 I know we've already covered that, but that's that
23 immediate threat of serious physical harm or death to
24 someone else, and you have to consider the totality of
25 the circumstances, because each one of those

1 circumstances help build probable cause. Those are
2 facts, not guesses. But, the probable cause, an officer
3 needs to have that in order to use deadly force. By
4 saying that you must be able to justify your actions,
5 you have to be able to articulate your actions of that
6 subject and why you utilized deadly force. It has to be
7 in developing that probable cause, meaning to justify
8 your actions.

9 Q. Okay. This is the last slide in that
10 presentation, and it's a sign saying, "Warning, beyond
11 the point, deadly force is authorized." Is this like a
12 little joke to end the presentation?

13 A. I don't know, ma'am.

14 Q. All right. I'm going to close Exhibit 15, and
15 I'm going to open one more training slide set, and I'm
16 going to share this with you.

17 | - - - -

18 (Thereupon, Plaintiff's Exhibit 16 was marked for
19 identification.)

21 BY MS. GREENE:

22 Q. This particular document looks like a training
23 written by you, is that right?

24 A. Yes, ma'am.

25 Q. And this is a 2016 deadly force presentation?

1 A. Yes, ma'am.

2 Q. And this was provided to the police training
3 academy and not to officers, correct?

4 A. Yes, ma'am.

5 Q. Are the principles taught in this training also
6 taught to officers?

7 A. Yes, ma'am.

8 Q. Okay. I would like to ask you about a few
9 specific sections of this training. Actually, we
10 already talked about this scenario. You're confronting
11 an armed suspect, no cover available. He faces you with
12 his gun at his side, pointed at the ground. Your gun is
13 aimed at him and you're ready to shoot. He ignores your
14 commands to drop his weapon. Are you justified in
15 pulling the trigger before he does any more to point his
16 gun at you? What's the answer to that scenario under
17 the CDP polices, practices and training provided to
18 officers?

19 A. Yes, ma'am. He's got his weapon right there at
20 his side, absolutely you're justified in using deadly
21 force.

22 Q. Okay. Now, I'm going to go to another page.
23 Here on Bates 019243 this document says that it is a
24 myth that officers can't shoot people in the back,
25 right?

1 A. Yes, ma'am.

2 Q. When is it allowed for CDP officers to shoot
3 people in the back?

4 A. Whenever that person is in immediate threat of
5 serious physical harm or death to the officer or others.

6 Q. Okay. I'm going to go to another page, Bates
7 019257. This says, "Forth Amendment standards require
8 all use of force to be reasonable." Objective
9 reasonable standards, and in the bullet point beneath
10 say, "from the perspective of a reasonable officer, not
11 with 20/20 hindsight, what the officer knew at the time
12 based on an objective standard." Do you see that?

13 A. Yes, ma'am.

14 Q. So, under CDP policies and training what does
15 that mean, based on an objective standard?

16 A. So, objective standard meaning using those
17 totalities of the circumstances on what is reasonable
18 and what is not. So, directly relating to the continuum
19 on what is reasonable compared to depending on those
20 suspects actions. An objective standard is would that
21 reasonable officer use that same level of force with
22 that suspect's actions.

23 Q. Is that based on what that specific officer who
24 actually did the shooting perceived then?

25 A. What a reasonable officer would do.

1 Q. Okay. And is that different than the person who
2 was there and engaged in the shooting, this reasonable
3 officer that you're describing?

4 A. If someone uses deadly force their actions have
5 to be reasonable no matter what officer is standing,
6 they have to be reasonable for that officer.

7 Q. Okay. I'm going to skip forward to Bate 019284.
8 I'm going to click through a series of slides, and let
9 me know when you're ready to go to the next one. Okay?

10 A. Yes, ma'am. Okay.

11 Q. I'm going to stop here for now, and we ended on
12 Bates 019291. What's the point of this section with the
13 title, "Police related killings and black males?"

14 A. This is a study, I believe, out of Toledo, and
15 it highlights the fact that officers don't have a
16 trigger finger for white people, and another trigger
17 finger for blacks.

18 Q. Is this to address the notion that black people
19 are disproportionately subjected to police violence?

20 A. It's supposed to mean the opposite, that
21 officers aren't targeting black people.

22 Q. And this information you've included in your
23 presentation here, would you consider it information
24 addressing a myth that there's disproportional police
25 violence toward black people?

1 A. Yes, ma'am.

2 Q. And is this training information that we've just
3 looked at on these slides consistent with CDP policies
4 and trainings on police killings?

5 A. Yes, ma'am.

6 Q. And so, it's the position of the Columbus
7 Division of Police that black people are not
8 disproportionately targeted or victims of police
9 violence?

10 A. Yes, ma'am.

11 Q. Okay. We're now looking at Bates 019292, and
12 there's a question here, research question five, "How
13 often should the police legitimately be using lethal
14 force? In other words, based on the limits of the law,
15 how frequently should we expect police use of legal
16 force to legally occur?"

17 A. Yes, ma'am.

18 Q. What's the answer to that question?

19 A. Can you go to the next slide for me? I would
20 definitely say that shooting has to be a reasonable one.
21 A lot of times people get caught up in the number of
22 shootings that there are. It's how many unreasonable
23 shootings were there.

24 Q. Okay. I'm going to take you to the last page of
25 this training, Bates 019298. Here this says, "We have

1 **28 weeks to take you from citizen to officer. There are**
2 **wolves. There are sheep. I am the sheepdog." Do you**
3 **see that?**

4 A. Yes.

5 Q. Is this referencing the same set of principles
6 that we discussed in the 2007 inservice defensive
7 tactics training around the sheepdog, and the wolves,
8 and the sheep?

9 A. Not the unprofessional ones, ma'am. Certainly
10 everybody understands that there are the wolves that are
11 the predators that prey on the weak, and the sheep are
12 the civilians that need us to protect them, and that we
13 are the sheepdogs. So, from taking someone from having
14 that mindset, developing that mindset, it's their place
15 now to protect the sheep. That's what that's
16 referencing.

17 Q. Okay. And so, this idea of wolves, sheep, and
18 sheepdogs is a philosophy that the CDP subscribes to
19 generally then, is that right?

20 A. I think it's something that people wanting to be
21 police officers can relate to as far as being guardians
22 of their community.

23 Q. Okay. And this training that we just looked at
24 is a training that you put on, and you put it on in
25 compliance with the policies, and practices, and customs

1 of the Columbus Division of Police, right?

2 A. Yes, ma'am.

3 Q. Now, throughout all of these presentations that
4 we just clicked through, I notice there's a number of
5 videos that I was unable to view because I received PDF
6 versions of these trainings.

7 A. Uh-huh

8 Q. So, I just want to ask you one quick question
9 about those videos. In any of the trainings that we've
10 looked at today or in any training that you've ever
11 received from the Columbus Division of Police or been
12 witness to, was the Chris Rock skit, how not to get your
13 ass kicked by the police, ever shown?

14 A. In one of my videos, absolutely not.

15 Q. In any training that you've ever received or
16 witnessed by the CDP?

17 A. I have seen the video. I don't know where.

18 Q. Did you see it through any CDP event?

19 A. I know that I've seen it, but I don't know
20 specifically where I've seen it at.

21 Q. Do you know whether you saw it in relation to
22 your duties as a police officer?

23 A. I don't, ma'am.

24 Q. Is it something that most of your colleagues in
25 the CDP have seen?

1 A. I don't know. I mean, I can't answer to anyone
2 else. I remember that video years ago. I don't
3 remember it being in a presentation, but I can't say for
4 sure.

5 Q. Okay. Do you know other colleagues who have
6 seen that video?

7 A. I don't know. I don't know.

8 Q. Has any of your other colleagues ever mentioned
9 that video to you?

10 A. Ma'am, it might have been. I don't even know if
11 it was shown in a video or not. I assure you, it wasn't
12 shown certainly at the recruit training level. I don't
13 know if it was in the past -- I have seen the video. I
14 don't know if it was used in a presentation at all. I'm
15 not going to say that my colleague have seen it or
16 haven't seen it, because if it was in a presentation I
17 don't want to perjure myself.

18 Q. Is it responsible that it was in a presentation
19 but you don't know as you sit here right now?

20 A. It's possible, ma'am.

21 Q. And I have a video that was produced to me in
22 discovery in one case, but Zoom is very poor at showing
23 videos to people. I'm going to describe it to you and
24 let me know if you remember seeing it in any trainings.
25 It was a Fox News clip, and it was talking about police

1 being shot by civilians, and the statement in that video
2 that was made, "Every police officer by their training
3 and experience feels like they're a target, because you
4 are." And also that, "Young rookie cops starting out
5 need to know it's a dangerous job." Do you recall
6 seeing that in your training at any point?

7 A. No, ma'am.

8 Q. Do those statements though reflect the policies,
9 and training, and practices of the CDP?

10 A. That the rookie cops -- could you read that to
11 me again, Ms. Greene?

12 Q. "Young rookie cops starting out need to know
13 that it's a dangerous job."

14 A. I would have to agree that they have to know
15 that it's a dangerous job.

16 Q. What about, "Every police officer by their
17 training and experience feels like they're a target,
18 because you are?"

19 A. We frequently say in training that, you know,
20 they see the uniform, and the uniform represents law and
21 people following the law, and we're the enforcers of
22 that law. So, I can't say that that's the position of
23 the Division of Police that because you wear the uniform
24 that you're a target per se, but that certainly wearing
25 a uniform is certainly an enforcer of the law. There's

certain predators in society that see us as a threat.

Q. Okay. I'm going to show you a couple more documents quickly here. Have you seen this before?

A. It appears to be a scenario. I don't remember the scenario, but it appears to be a scenario.

Q. Okay. It was titled when it was given to us as scenario gun run 2016. Does that suggest that this is the 2016 inservice scenario training provided to CDP officers?

A. Yes, ma'am. I think that would be fair to say.

Q. Okay. So, for the 2016 annual inservice training all CDP would have run through these particular scenarios in this document then?

A. Yes, ma'am.

Q. Okay. I'm going to mark that as Exhibit 17.

(Thereupon, Plaintiff's Exhibit 17 was marked for identification.)

BY MS. GREENE:

Q. This one, the document title is training "Deadly Force Decision Making 2015."

A. Okay.

Q. Have you seen this one before?

A. I mean, if it was in the scenario, then I would

1 have had to have completed it. I'm just looking through
2 it to see if I remember the scenario. I don't remember
3 the scenario, ma'am.

4 Q. We see on the bottom this was a 2015 document.

5 Was this a scenario used at inservice training that
6 year?

7 A. I don't remember the scenario.

8 Q. This is a deadly force training document from
9 the year of 2015 though, right?

10 A. I'm not familiar with this, ma'am. I'm sorry.

11 Q. Okay. Well, you're here to testify on deadly
12 force training to the CDP officers in a range of years
13 including 2015, correct?

14 A. Yes, ma'am.

15 Q. So you don't know what this is and you've never
16 seen this before?

17 A. No, ma'am. I don't recall.

18 Q. I'm going to ask you about the scenario
19 described here. "Officers are dispatched to a domestic
20 where they need to make an arrest and the possibility of
21 a weapon in the apartment." And here during this
22 scenario the officers hear the sound of a shotgun being
23 racked or cycled in another room. What happens
24 apparently is that they deal with the husband and the
25 victim, and then later in the scenario the brother

1 appears in the doorway and he either has a shotgun or
2 the officer just heard the sound of the shotgun being
3 racked in the other room, right?

4 A. Yes.

5 Q. So, if the individual appears in the doorway
6 with the gun, is the officer, under this scenario,
7 supposed to shoot at the brother?

8 A. Ma'am, I haven't seen this before to know the
9 objective. If the objective says here, "determine if
10 the officers can tactfully determine the need not to
11 shoot after during an arrest when they hear the sound of
12 a shotgun being racked/cycled in another room." Do you
13 want me to give an opinion on this scenario?

14 Q. Let me go to the next page. Maybe this will
15 help you. See down at the remediation we have,
16 "officers must be able to analyze a tense, fast evolving
17 deadly force encounter. Instructor will determine what
18 skill was incorrect; specifically failing to identify
19 the deadly force threat, failing to properly respond to
20 the deadly force threat with deadly force." Do you see
21 that there?

22 A. Yes, ma'am.

23 Q. So, tell me if I'm reading this wrong, it sounds
24 like then to me under this document that in this
25 scenario officers are supposed to shoot, is that

1 | correct?

2 A. Yes, ma'am.

— — — —

(Thereupon, Plaintiff's Exhibit 18 was marked for identification.)

— — — —

7 | BY MS. GREENE:

Q. I'm going to close Exhibit 18, and I'm going to open what I'll mark as Exhibit 19 and I'll share this with you.

1 | Page

(Thereupon, Plaintiff's Exhibit 19 was marked for identification.)

— — — — —

5 BY MS. GREENE:

6 Q. Have you ever seen this one before?

A. Yes. I remember this one, ma'am.

8 Q. Do you know what year this is from?

A. I do not know, but I know it was follow-up to basically when you have an active shooter scenario, and using cover to go across -- I remember this one being outside. This is to help officers get closer to the subject while using cover.

4 Q. Okay. And in this document -- we're looking at
5 Bates 24. In this paragraph at the top, which I think

1 you just read, we have a person who was waving a gun,
2 firing shots, officers arrive. They see the suspect
3 shooting a victim on the ground. The suspect engages,
4 meaning with fire at officers in the outdoor area, the
5 suspect flees. And then, ultimately the officers enter
6 that apartment where the suspect fled to, they locate
7 that suspect and arrest them, right?

8 A. Yes, ma'am.

9 Q. And here that person is compliant and giving up
10 at the point that they arrive, right?

11 A. Yes, ma'am.

12 Q. Now, here this suspect has been seen shooting
13 someone, waving a gun, firing a shots, and shooting a
14 victim on the ground, and the officers here are expected
15 to engage in deescalation techniques to secure that
16 suspect when they arrive in this scenario training,
17 correct?

18 A. Yes, ma'am.

19 Q. Okay. So, having witnessed a suspect engage in
20 the use of deadly force him or herself, that doesn't
21 necessarily justify officers shooting at that person,
22 does it?

23 A. If the officer sees a suspect shooting at
24 someone, absolutely it allows you to use deadly force.

25 Q. But here isn't the objective that they're

1 **supposed to use deescalation techniques to secure the**
2 **person?**

3 A. No. Well, I remember this scenario is,
4 obviously, to communicate with those other officers
5 to -- this is out of an active shooter. So, you have
6 possible victims inside, and so you need to make sure
7 that we deal with that deadly threat. And in here it
8 says that the suspect would then hide in a bedroom
9 within an apartment, and then became compliant in giving
10 up. So, if you're behind cover and you could give
11 commands to that person and they are compliant, just
12 because they've shot someone -- I mean, we do that.
13 Columbus Police does that all the time in these hostage
14 negotiations. If the suspect decides to be compliant
15 and give up, it doesn't mean that the use of deadly
16 force is unreasonable while they're shooting the person,
17 actively shooting someone. Of course, that's going to
18 be that deadly force is going to be reasonable.

19 But, now they get into this room and they're
20 giving them commands and puts down the gun and comes out
21 with his hands up, remember, just because you have the
22 ability to -- not the ability. But, because deadly
23 force is reasonable, if they drop the gun with hands up
24 and walk out, you could lose the ability to use deadly
25 force even though seconds before it was okay.

1 Q. Okay. I'm going to open Exhibit 20.

2 - - - -

3 (Thereupon, Plaintiff's Exhibit 20 was marked for
4 identification.)

5 - - - -

6 BY MS. GREENE:

7 Q. Okay. Have you seen this one before?

8 A. Yes, ma'am. So ordnance means it was done over
9 at firearms and the people running from the venue --
10 this was done with live fire. The people running from
11 the venue were actually targets. So this is the
12 decision-making course that officers do and this is just
13 a particular scenario. So they had targets with
14 non-deadly threats coming at you, and you had to look at
15 those targets and determine which one wasn't a threat
16 and which one was.

17 Q. And this document contains, it looks like
18 scenarios from 2015, at the bottom we see 2016. On the
19 next page at the bottom we see 2017. And then, the
20 following page 2018. Have you seen this document
21 before, or you just remember that training?

22 A. I remember going through the training, ma'am.

23 Q. Okay. And when you say "at ordnance," is this
24 part of the annual firearms requalification?

25 A. Yes, ma'am. So one phase of training is the

1 decision course, and that's -- I mean, it obviously
2 deals with deadly force. I remember going through that
3 particular scenario.

4 Q. Is this a scenario training where people act out
5 for the officers who are there as students on that
6 particular day, or the officers actually participate in
7 the scenarios themselves?

8 A. They were paper targets, ma'am. So the officers
9 going through these scenarios had live fire in their
10 gun, and the paper targets -- they were told the
11 scenario, but they weren't really people that were
12 running out. They were paper targets, but it made you
13 look at each target and determine if they had firearm in
14 their hand.

15 Q. Okay. So the way that this works then is
16 officers who were at the range are told the facts of a
17 scenario, and then, they are positioned at the range
18 with moving paper targets that arrive in their field of
19 view and they have to make a determination of shoot,
20 don't shoot, is that right?

21 A. Yes, ma'am.

22 Q. Okay. And can I just flip through these pages,
23 and skim them for me, and just tell me if on all of
24 these pages that's the kind of scenario training that
25 we're talking about?

1 A. Yes, ma'am. Okay. Next one, ma'am. Next one,
2 ma'am.

3 Q. Okay. Is that all the same kind of training
4 that you were just describing?

5 A. It is, but I'm guessing it's a document that
6 describes the scenarios during phase training. So DTU,
7 that would be defensive tactics unit, and the ordnance
8 would be over at firearms. So, it's all under the
9 training bureau since they're all training scenarios.
10 However, the DTU scenarios were given during defensive
11 tactics. And then, the ordnance training was given at
12 the phase of the training over at ordnance.

13 Q. Okay. Understood. So then for the years listed
14 here for inservice training the DTU sections are were
15 what were used at inservice training and the ordinance
16 was part of firearm requalification training at some
17 time during the year?

18 A. Yes, ma'am.

19 Q. Okay. Can I ask you about this scenario three
20 on Bates 00003. "Officer is dispatched to take a
21 report." Do you see that there at the top of the page?

22 A. Yes, ma'am. This was done at ordnance.

23 Q. Do you remember this particular training?

24 A. Yes, ma'am. It would have been a target with a
25 dog coming at you over at ordnance on the range.

1 Q. Okay. So, in this scenario where an officer is
2 faced with a situation of a dog running toward the
3 officer, and the owner of that dog, as it says here,
4 "incident human being down range," or in the direction
5 of the dog at the time that the officer may choose to
6 deploy deadly force, what is the officer supposed to do
7 in pursuant to CDP training and policies in that
8 scenario?

9 A. So, in this scenario the officer -- so we had a
10 tragic incident happen with one of our officers where
11 they had a dog charge at them, and they shot the dog and
12 missed the dog, I think on one of the shots. And the
13 shot went through a door and shot -- I believe, it was a
14 child, maybe four years old and shot her in the leg. So
15 this is in response to that training to make sure that
16 we're aware of our backdrop, especially when you have
17 a -- I mean, dogs are very fast and moving around and
18 being aware of your backdrop, and it's a dangerous
19 situation for anyone in the area if you decide to use
20 that deadly force.

21 Q. So, like if the dog owner is visibly downrange
22 from the officer and the dog is coming at the officer,
23 under CDP policies are they allowed to shoot at the dog?

24 A. I mean, if you could be certain of your backdrop
25 that it's going to go into the ground and not hit an

1 incident person, deadly force would be able to be used,
2 but they've gone as far as telling us to distract, try
3 to distract the dog with using one of our intermediate
4 weapons. To use Taser instead of use deadly force if
5 you can't be certain that an incident person could get
6 shot, that would be the wrong decision.

7 Q. Okay. So under CDP policies, and training, if a
8 person who doesn't present an imminent threat at that
9 time, might accidentally get shot while the officer
10 attempts to shoot at a charging dog, the officer should
11 try to do something else other than shoot because of the
12 the risk of hitting the person, is that right?

13 A. Yes. I mean, we definitely want the officers to
14 look at their backdrop and try to avoid using deadly
15 force.

16 Q. Okay. I just want to go back to this legal
17 updated and citizen liability training briefly. Is
18 civil liability training provided through the mechanism
19 of legal updates to officers?

20 A. It's taught at the academy level. It's actually
21 a four block of training. That's their first
22 introduction to Graham v. Connor, Tennessee v. Garner,
23 all of that, but they also talk about qualified
24 immunity. Obviously, if someone is driving recklessly,
25 then you could be criminally charged for that. That's

1 what that class -- it's one of the things that it
2 pertains to. Certainly, civil liability is certainly
3 covered in legal updates as well.

4 Q. **And for officers, not in academy, now talking**
5 **about officers, are they provided with civil liability**
6 **training related to deadly force through any other ways**
7 **other than legal updates?**

8 A. I mean, I suppose there could be a rollcall
9 training. It doesn't necessarily mean legal updates,
10 but I believe at legal updates -- from the city
11 attorney's office, that's where that's taught.

12 Q. **Okay. And with regard to legal updates provided**
13 **to officer for the purposes of training from 2010 to**
14 **present, do you have anywhere a compiled list, or a set**
15 **of those documents available to you specifically related**
16 **to deadly force?**

17 A. Yes, ma'am.

18 Q. **Would you be able to produce that to your lawyer**
19 **so they could give that to us?**

20 A. Yes, ma'am. Is there a timeframe, ma'am?
21 They're archived for quite sometime. Is there a
22 timeframe that you'd like?

23 Q. **I guess I would ask for 2010 to present. I'm**
24 **going to share with you one last document. Here we have**
25 **CDP directive Rule 1-01, and then all of the rules that**

1 follow. This was revised on June 30th, 2015 we see at
2 the bottom, right?

3 A. Yes, ma'am.

4 Q. And I'm going to come down to --

5 MS. GREENE: Bill, I've hunted high
6 and low for this policy update that was supposed to have
7 taken place in 2015. We can't find it, so I'm going to
8 ask that you produce that to me.

9 MR. SPERLAZZA: 2015?

10 MS. GREENE: Use of force policy that
11 was allegedly updated on June 30th, 2015, because all
12 the versions that we have are identical and have a
13 promulgation date from 2014.

14 BY MS. GREENE:

15 Q. Just to wrap this up, Officer Shaw, whatever
16 that policy is, when Bill produces it to me, that would
17 be the policy that would have applied at the time of the
18 shooting of Deaunte Bell-McGrew on October 29th, 2015,
19 and Tyree King on September 14th, 2016, correct?

20 A. Yes, ma'am.

21 Q. Okay. And other than that update in policy,
22 between the two policies that we discussed, otherwise
23 the policies, and procedures, and practices, that we
24 discussed today all applied during the officer involved
25 shootings of James England, Deaunte Bell-McGrew, and

1 **Tyree King, correct?**

2 A. Yes, ma'am.

3 MS. GREENE: Okay. That will be it.

4 MR. SPERLAZZA: Okay. We'll read.

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1 C E R T I F I C A T E

2 STATE OF OHIO,)
3 CUYAHOGA COUNTY.)

4 I, Megan A. Medved, a Notary Public within and for the
5 State of Ohio, duly commissioned and qualified, do
6 hereby certify that the within named witness, OFFICER
7 TRACI SHAW, was by me first duly sworn to testify to the
8 truth, the whole truth and nothing but the truth in the
9 cause aforesaid; that the testimony then given by the
10 witness was by me reduced to Stenotype in the presence
11 of said witness, afterwards transcribed upon a computer;
12 and that the foregoing is a true and correct
13 transcription of the testimony so given by the witness
14 as aforesaid.

15
16 I do further certify that this deposition was taken at
17 the time and place in the foregoing caption specified,
18 and was completed without adjournment.

19
20 I do further certify that I am not a relative, employee
21 of or attorney for any of the parties in the
22 above-captioned action; I am not a relative or employee
23 of an attorney of any of the parties in the
24 above-captioned action; I am not financially interested
25 in the action; and I am not, nor is the court reporting

Deposition of Officer Traci Shaw

Dearrea King Adm. of the Estate of Tyree King, vs. City of Columbus,

1 firm with which I am affiliated, under a contract as
2 defined in Civil Rule 28(D).
3

4 IN WITNESS HEREOF, I have hereunto set my hand and
5 affixed my seal of office at Cleveland, Ohio on February
6 15th, 2021.
7
8

9 Megan Medved
10

11 Megan A. Medved, a Notary Public
12 in and for the State of Ohio.

13 My Commission expires 9/17/23
14
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